

PROCEDURES

TITLE: Student Code of Conduct: Hearings and Appeals	Number: SC 101B - 07
	Date of Implementation: Sept. 2007

Hearings and Appeals

A. Role and Composition of the College Hearing Committee and the College Appeals Board

Composition:

The members of the College Hearing Committee (CHC) and the College Appeal Board (CAB) are students, faculty and staff appointed by the Vice-President, Student and Community Engagement to serve for a two year term, renewable once, unless terminated earlier by the Vice President, Student and Community Engagement. Students shall serve for a one year term, renewable once.

The panels for the College Hearing Committee and the College Appeal Board will consist of a minimum of three and a maximum of five members, and must include at least one student, and one faculty member. The CHC and the CAB will be chaired by the Vice President Student and Community Engagement. Where the Vice President has Chaired a College Hearing Committee and a subsequent appeal is received, the Vice President shall declare a conflict and the panel members of the College Appeal Board shall elect a Chair for the proceedings. No panel members may serve on both the CHC and CAB for a case involving the same student. The secretary of the College Hearing Committee and the College Appeal Board (the Secretary) will be a person from the Office of the Vice President Student and Community Engagement or designate. The Secretary is a non-voting member of the Committee.

Role:

Hearings provide an opportunity for a balanced airing of facts. The hearings are “private”, that is restricted to persons who have a direct role or interest in the hearing, or persons who are acting as witnesses. At the discretion of the Chair, other persons may be admitted to the hearing for training purposes or other reasonable considerations.

Both the College Hearing Committee and the College Appeal Board are administrative bodies and therefore not bound to observe strict legal procedures but ensure that their procedures are as fair as possible (“procedural fairness”) and rules on “balance of probability”. The guiding principle of “procedural fairness” means a range of rights and procedures that guarantee fairness, including the right to be heard and the right to a fair decision. The “balance of probabilities”, means that the person(s) making the decision must find that it is more probable than not that a contested fact exists.

The College Hearing Committee hears cases where the recommended sanction is suspension or expulsion or, in cases of an alleged breach of Academic Honesty, where there is no admission of guilt. All written documentation considered in the previous processes which lead to the recommendation to suspend or expel or to prosecute for academic misconduct must be forwarded to the Office of the Vice President Student and Community Engagement, with the

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penalty noted. A hearing will be arranged. Decisions of the College Hearing Committee may be appealed to the College Appeal Board on the grounds outlined below in the appeals process.

The College Appeal Board hears appeals of decisions (substantive) or decision-making process (procedural) from a previous level, either the College Hearing Committee or sanctions imposed otherwise.

Initial submissions must be made in writing and must be based on any one or more of the following grounds:

- evidence of an error in procedures; or,
- evidence that the breach was unsupported by the facts; or,
- evidence that the penalty imposed was unduly harsh or insufficient; or
- new evidence that could not have reasonably been supplied earlier.

Upon receipt of the request for an appeal, the College Appeal Board shall review the written submissions and depending upon the nature of the request, may grant a hearing *de novo*, may grant a limited hearing for the purpose of hearing submissions regarding sanction only, or may refuse to grant the request. The CAB may dismiss, set aside, vary or uphold the decision or sanction appealed and may impose any of the disciplinary sanctions set out in College policies. A hearing is not required to be held with respect to the request for leave to appeal.

Decisions of the College Appeal Board are final and become effective immediately.

B. Secretary to the College Hearing Committee and College Appeal Board The Secretary will be responsible for:

- Coordinating all meetings and hearings of the Committee, preparing and distributing files for review and/or hearing by the Committee, notifying Committee members of the dates, times and locations of hearings, seeking any declaration of conflict of interest and notifying the Vice President of any, and maintaining files and records of all cases reviewed or heard by the Committee and Board.
- Notifying the party(s) to the case, at least 5 business days in advance of the date, time, and location of the hearing, providing the names of members of the Committee, and providing the parties with a copy of the evidence gathered.
- Notifying the Vice President Student and Community Engagement of any identified conflict of interest.
- Requesting information on prior convictions from both the home School of the Student and the Student Relations Office. This information remains confidential and becomes available to the Committee only when considering penalty.
- Recording and safekeeping of the proceedings of the hearing.

Notice will be sent via e-mail and post to the current e-mail and mailing addresses provided by the student and available on the Academic Information System. Students are responsible for updating their contact information through Enrolment Services. Any notice sent to postal or e-mail address and not received because the student has failed to meet this requirement will have no bearing on the proceedings.

C. Student Rights and Responsibilities at a Hearing

- Students have the right to representation. They are encouraged to bring an adviser, for example, a student advocate of their choice to a hearing. The name of the adviser must be provided to the Secretary at least two days prior to the Hearing.
- Students have the right to have their case heard within a reasonable amount of time. Every attempt will be made to hear the case within 15 business days of receipt of request.
- Students have the right to a private hearing where only persons with interest in the matter will be present.
- Students have the right to know the nature and source of the evidence. All information will be provided in writing to all parties in advance of the hearing, including the Procedural Guidelines for hearings/appeals.
- Students have a responsibility to attend the hearing. If a student fails to appear at a hearing after proper notice, the hearing may **proceed**, a decision made and sanctions imposed, unless the student can establish, to the satisfaction of the Chair, the existence of circumstances which made an appearance before the Committee impossible or unfairly burdensome.
- If after being notified of the names of the Committee members, a student is aware of a conflict of interest or ought to reasonably have known of a conflict of interest, the student must notify the Secretary immediately by telephone or e-mail of the conflict and the reason for the conflict.

D. Hearing & Appeals Procedures

A scheduled hearing will proceed regardless of the attendance of the student(s) requested to participate.

A scheduled hearing may be cancelled and rescheduled by the Office of the Vice President Student and Community Engagement due to unforeseen circumstances.

Hearing or Appeals: Suspension or Expulsion

- a) Where a suspension or an expulsion has been recommended, a hearing will be convened within fifteen business days of the recommendation being received by the Office of the Vice President Student and Community Engagement. The Secretary will fulfill responsibilities set out in this document. The Committee will consider all evidence gathered and related to the case, including information obtained from the party(s) and witness(s) and will make a decision to dismiss, set aside, vary or uphold the recommendation or may impose any of the disciplinary sanctions set out in the Code.

The Committee will provide the decision in writing to the complainant and the respondent within five business days of the hearing, with a copy to the Student Relations Office and other offices as appropriate (such as Enrolment Services). The decision of the Committee will be final and will become effective immediately unless otherwise specified in the decision.

Appeals Of Sanctions Not Related to Suspension or Expulsion

After sanctions are applied, a written appeal may be filed with the Office of the Vice President Student and Community Engagement, for any of the following reasons:

- evidence of an error in procedures; or,
 - evidence that the breach was unsupported by the facts; or,
 - evidence that the penalty imposed was unduly harsh or lenient; or
 - new evidence that could not have reasonably been supplied earlier.
- b) The appeal must be submitted with all pertinent documentation within five business days of receipt of the written notification of the decision. The submission must clearly outline the substance of the appeal, including relevant evidence where applicable, and must indicate the specific remedy sought.
- c) The Board will review the submission and will make a decision to refuse to grant the request if it lacks merit or was filed in bad faith or to hear the appeal. If the appeal is dismissed, the Committee will notify the party(s) of the decision in writing in a reasonable amount of time, with every attempt to do so within 15 business days of receiving the appeal. The decision will be final. Review of an appeal is not dependent upon receiving a response from any opposing party. Should the Board choose to hear the appeal, it may do so solely with the documentation received. The Board may grant a hearing *de novo*; or may grant a limited hearing for the purpose of hearing submissions regarding sanction only.
- d) If, after reviewing the submission, the Committee decides to hear the case, the Committee will notify the Secretary, who will in turn arrange the hearing within a reasonable amount of time, with every attempt to do so within 15 business days of receiving the appeal. The Committee will consider all evidence gathered and related to the case, including information obtained from the party(s) and witness(s) and will make a decision to dismiss, set aside, vary or uphold the decision or may impose any of the disciplinary sanctions set out in College policies.
- e) The Committee will provide the decision in writing to the complainant and the respondent within five business days of the hearing, with a copy to the Student Relations Office and other offices as appropriate (such as Enrolment Services). The decision of the Committee will be final. No compensation will be made if a sanction is overturned.

K. Record Keeping

Records of student discipline will be kept secure in the Student Relations Office for five (5) years.

1. Cross References

Reference to policy number

2. Appendices

Identify any attached appendices
Attach workflow if applicable
Attach forms if applicable