

## Academic Review and Appeals

*Approved by Senate 461, January 2004*

### I. ACADEMIC REVIEW

Decisions on academic matters in the University are made by faculty members, Chairs of Departments, Deans and the Vice-Principal, and by Senate. Decisions which specifically concern a student's academic progress or status are made in conformity with Departmental, Divisional, School or Senate regulations governing courses, programmes and degrees. There are both informal and formal methods of reviewing these decisions. At the informal level, the following steps must be taken:

- i. The issue shall first be discussed between the faculty member and the student or students concerned. It is strongly suggested that students seek the advice of the University Ombudsman before or at this stage.
- ii. If the academic issue cannot be directly resolved between the faculty member and the student (s), the matter must be taken to the Dean of the Division or School to which the faculty member belongs (or the Vice Principal, for students in the School of Education), within thirty days of the end of step (i).
- iii. If the matter cannot be resolved by the Dean (or Vice Principal), the services of the Ombudsman should be considered for seeking a mediated solution. Faculty may also consult the Dean of the Division or school to which they belong.

If after these informal options have been exhausted there exists a need for a formal review of an academic matter, the Senate has established two committees, the **Academic Review Committee** (ARC) and the **Academic Appeals Committee** (AAC) to deal with the formal review of all academic matters. The University Senate delegates to these Committees the authority to render decisions on all academic matters as well as the authority to implement additional procedures consistent with those set out below.

The function of the Academic Review Committee is to hear complaints against any academic decision taken in the University by a faculty member, a Department Chairperson, a Dean or the Vice-Principal, and to adjudicate all infractions of University academic policy referred to it by any member of the University community. The function of the Academic Appeals Committee is to hear appeals against decisions made by the ARC (see below for the specific grounds for appeal). Normally, the decision of the AAC is final and binding on all parties. However, in particularly serious cases, further appeal to the Visitor may be possible (see R.O.R.'s, § 2.2).

#### The Academic Review Committee

The Academic Review Committee (ARC) shall consist of five voting members: two faculty members, who shall be members of Senate and chosen by the Senate Nominating Committee, two students who shall be members of Senate and chosen by the Senate Nominating Committee, and one academic officer of the University, (Dean or Vice-Principal) who shall be named by the Chair of Senate (the Principal). Three alternate members shall also be selected by the Senate Nominating Committee; two students and one faculty member. The ARC shall elect annually a chairperson whose name will be communicated to the Secretary of Senate.

***Note:** For eligibility rules concerning members who may sit on the ARC as well as further procedures regarding the Committee quorum, procedures in committee, documents, onus and standard of proof, please refer to Appendix I, below.*

- i. The Committee year extends from May 1<sup>st</sup> through April 30<sup>th</sup> of the following calendar year. The Committee shall remain constituted for the **entire** year.
- ii. Faculty members shall serve a term of two years, renewable once, after which they must step down for at least one full year. Student members shall serve a term of one year, renewable once. Senate shall make provisions (through its Nominating Committee) for timely replacement of members whose terms are expiring.
- iii. The Committee is authorized by Senate to select which alternate members will replace regular members who must leave the Committee before the end of their term or who are unavailable during the summer months.

## **Powers**

The Academic Review Committee shall have the following powers:

- i. review any academic decision taken by a faculty member, a Department Chairperson, a Dean or the Vice-Principal.
- ii. review any infraction of University academic policy including all matters governed by Department, Division, School and Senate regulations.
- iii. review any complaint regarding interference with the University's academic operation.

**Note 1:** *The ARC does **not** have jurisdiction over the following areas: admission to the University, re-admission, probation and academic standing issues, including "must withdraw" decisions, and scholarship decisions. These areas are the purview of the Academic Standing/Admissions Policy (ASAP) Committee.*

**Note 2:** *Before the ARC will accept jurisdiction for decisions concerning grades, there is a separate procedure for the review of marks obtained in final exams and in other components of a course (see Calendar p. 30). This procedure must be followed first.*

## **Making a Request to the Committee**

The Academic Review Committee will consider a request for review only after:

- i. the receipt by the Committee Chairperson of a written and signed notice of request filed within thirty days of the time that the most recent academic decision concerning the matter in dispute has been communicated in writing to the student. Requests for review must include: a complete specification of the wrong to be corrected, the specific grounds for the request for review and the remedy sought. In the case of a request to review a general policy or regulation, the written, signed notice may be made at any time. In all cases, requests for review of any academic decision must be initiated before the marks deadline of the semester following the completion of the course in question.
- ii. before proceeding with a request for review of any matter, the ARC Chairperson will request a written assurance from the Dean (or Vice Principal) and Ombudsman that all reasonable efforts have been made to solve the dispute at an earlier level.
- iii. Within seven working days of receipt of the notice of request for review, the Chairperson will acknowledge the same in writing to the complainant(s).
- iv. Within ten working days, the Chairperson shall convene an initial meeting of the ARC and give a five day notice to all parties of the date of the initial meeting.

## **Disposition of the Committee Decision**

- i. Decisions shall be made by simple vote of the Committee; three positive votes are necessary to carry any decision. The tally of all votes shall be recorded in the minutes.
- ii. During the course of a review, no changes shall be made to any mark or grade in question, nor to any student's current status, nor to his/her eligibility for a given programme.
- iii. The Academic Review Committee shall render a decision on a review within sixty calendar days of receipt of the request for review.
- iv. The Chairperson of the Committee will report its decision to the complainant, the defendant, the Chair of Senate (the Principal), and the appropriate Dean or Vice Principal within five days of the rendering of the decision.
- v. If the decision is not taken to appeal (see below), the appropriate Dean or Vice Principal will be responsible for the implementation of the final decision. At least thirty days will be allowed for the implementation of the decision by the individual University office involved.

## **II. ACADEMIC APPEALS**

The Academic Appeals Committee (AAC) shall consist of three members: one faculty member who is **not** a member of Senate named by Faculty Council, one student who is **not** a member of Senate named by the SRC, and one Academic Officer of the Senate (Dean or Vice-Principal) named by the Principal. Two alternate members shall also be named, one faculty member and one student. The regulations for the term of office, length of the Committee year, election of the chairperson, eligibility, extension of term, and replacement of members, shall be the same as those for the ARC (see above).

Where an appeal of the decision of the ARC has been submitted, the Senate shall either:

- i. receive and accept the report of the ARC
- ii. receive the report of the ARC and refer the case to the AAC.

In both cases debate on Senate's decision must be held **in camera**, and any member of Senate who is a party to the case must recuse him- or herself from the discussion. The content of the debate shall be confidential and Senate shall limit itself to discussion of material contained in the report of the ARC and the request for appeal. Members of Senate who are also members of the ARC shall abstain from voting.

### **Filing an Appeal**

- i. An appeal against a decision of the ARC must be filed with the Chairperson of the AAC within thirty days of the decision rendered by the ARC.
- ii. The appeal may be from either complainant or defendant but in either case shall be written and signed and state specifically the grounds for appeal, the remedy sought and include all of the documents (written and oral) used by the ARC to achieve its decision.
- iii. Unless there is compelling need for further clarity, no new documents will be considered by the ACC that were not before the ARC.
- iv. Before proceeding to hear an appeal, the chair of the AAC will, within seven working days of the request for an appeal, acknowledge the request for appeal, notify both parties and within ten working days convene a meeting of the AAC. Five days notice will be given to both parties of the date of the first meeting of the AAC.

### **Grounds For Appeal**

The Academic Appeals Committee has the power to hear an appeal from a decision of the ARC for the following reasons:

- i. errors of fact in information used by the ARC which could affect the decision rendered,
- ii. new evidence not available to a party at the time of the decision of the ARC was made,
- iii. errors of interpretation of any University academic policy or regulation,
- iv. serious procedural error,
- v. action by the ARC beyond its jurisdiction.

### **Procedures**

- i. The regulations with respect to: procedures in Committee, documents, onus and standard of proof set out in Appendix I for the ARC, will apply **mutatis mutandis** for the Academic Appeals Committee.
- ii. The AAC will hear testimony from the Chairperson of the ARC where significant procedural error is alleged as the grounds for appeal.
- iii. The AAC will have access to all recorded testimony, documents and minutes of the ARC.

### **Decisions**

- i. Decisions shall be by simple vote of the Committee; at least two positive votes are necessary to carry any decision. The tally of all votes shall be recorded in the minutes.
- ii. The AAC may decide to return the case to the ARC for further review. Alternatively, it may uphold the decision of the ARC or fashion any other remedy as it sees fit.
- iii. The AAC shall render a decision on the request for appeal within three months of the request for appeal.
- iv. The Chair of the AAC will report its decision to the complainant, the defendant, to the Chair of Senate (the Principal) and to the appropriate Dean(s) or Vice Principal within five working days of the rendering of the decision.
- v. The decision of the AAC will be final and binding on all parties.

## **APPENDIX I: Rules and Procedures**

### **1. Eligibility.**

The eligibility of students, Faculty members, Deans and the Vice-Principal who sit on either the ARC or on the AAC is restricted as follows:

- i. individual members cannot sit on both Committees,
- ii. no individual member of either committee can serve if they are involved in the case as plaintiff, defendant or witness,
- iii. no individual member can serve on either committee who has been found guilty of an academic offence,
- iv. no individual member can serve on either Committee who is in a position of bias or conflict of

interest (financial gain, kinship relation, close personal relationship),

- v. all student members who serve on either Committee must be in good academic standing in their programme at the time they are elected to the Committee concerned.

## 2. Quorum

A quorum shall consist of two student members and two faculty members and one academic officer of the University (or the alternate). Every effort shall be made to assume that a consistent quorum of members follows each case to its conclusion. The Committee is authorised to extend the terms of members for this purpose. The Committee shall elect annually a chairperson whose name will be communicated to the Secretary of Senate. Senate shall make provision for a Committee secretary who will record the minutes of all meetings. The Secretary shall not participate in the discussions and shall not have a vote.

## 3. Examples of matters that can be reviewed by the ARC

- i. all matters of academic integrity after a decision by the appropriate Dean or Vice Principal has been rendered,
- ii. programme eligibility, programme transfer, programme requirements,
- iii. requirements for the degree,
- iv. credit for studies elsewhere,
- v. deferred status for exams or course components,
- vi. requests for supplemental exams,
- vii. a mark or a grade in a course, final standing in a course **after** the procedures for external re-reading of exams or course components have been completed,
- viii. grading practices after a decision by the appropriate Dean or Vice Principal has been rendered,
- ix. any infraction of Department, Division or Senate regulations,
- x. any complaint regarding interference with the academic operation of the University.

## 4. Procedures in Committee

- i. The Committee shall conduct its meetings **in camera**,
- ii. Both complainant and defendant(s) have the right to be accompanied by a representative of their choice; this representative shall be any full-time member of the University community.
- iii. The University, if it so decides, may appoint a legal advisor to assist the Committee. Such an advisor shall be considered a neutral observer in the proceedings of the Committee and shall not vote.
- iv. Both complainant and defendant have the right to make representation in the manner decided by the Committee.
- v. The parties to the dispute shall be interviewed separately by the Committee in the first instance at which time they may make oral representations and refer to the relevant evidence (see documents below). This procedure does not preclude a face-to-face meeting if all parties agree.
- vi. General minutes shall be taken of the meeting and the testimony of witnesses and of all motions of the Committee. Copies of the minutes will be provided to all parties.
- vii. All oral testimony given by witnesses will be recorded on audio tapes which will be made available to the complainant and the defendant and to which they may respond in writing within five days of receiving a copy of the tape.
- viii. All written and oral testimony, evidence and minutes of the Committee are confidential to the Committee and to the parties involved in the dispute. Deliberations of the Committee are confidential to the Committee.
- ix. Each Committee shall establish its own **modus operandi**, however, the following sequence is a general guideline:
  - a. introduction of the complainant, defendant, members of the Committee,
  - b. review of documentation,
  - c. rulings on documentation or further evidence necessary,
  - d. statement by the complainant, questions from members of the Committee,
  - e. statement by the defendant, questions from members of the Committee,
  - f. re-calling of the complainant and defendant **for clarification of information only** by members of the Committee.

## 5. Documents

- i. Copies of all documents submitted by each party will be made available to members of the Committee, to the complainant and to the defendant one week before the hearing date,
- ii. University records such as transcripts, student files, office correspondence as well as all Departmental, Divisional and Senate regulations are **automatically** evidence before the Committee,
- iii. All documents provided by either party will become evidence for the Committee unless one party objects on the grounds that such documents are forged or false or made with malicious intent. Such documents may become evidence before the Committee only after the Committee receives written confirmation of their authenticity by the original author. The Committee reserves the right to accept or reject all documents.
- iv. The Committee will request written evidence and testimony from all parties to the dispute as well as from the appropriate Dean or Vice Principal and from the Ombudsperson.
- v. The Committee shall reserve the right to invite and receive written and/or oral evidence from any other party, to request and receive any other document it deems may assist in its deliberations and all such evidence shall be made available to the parties in the dispute.
- vi. In the case of new documents brought to the Committee during the hearing, both parties and all members of the Committee will have the right to review such documents before proceeding with the case.
- vii. Following the Committee's final decision in the case, all documents, including the written evidence submitted by the parties to the dispute and the taped oral testimony, will be retrieved by the Chair, and together with the minutes, shall be deposited with the University Secretary and shall be made available to the parties in the dispute,
- viii. The University Secretary will number all documents, arrange them in chronological order and provide for their safe-keeping until such time as a further appeal is sought (see AAC below) or for a period of one year, whichever is applicable.

## 6. Onus

- i. The onus is on the complainant to demonstrate that the ruling or decision in question is inappropriate or unreasonable. The exception shall be in cases of academic dishonesty where the onus is on the faculty member (or the University) to demonstrate that an academic offence has been committed.
- ii. In cases regarding the waiving of Departmental, Divisional or Senate regulations, where the grounds for such a request are either medical, compassionate or other extenuating circumstances as decided by the Dean of the Division concerned (or the Vice Principal), the onus is on the complainant to demonstrate that following the particular regulation in question was impossible. In such cases, documents attesting to the status of the student must be provided in a timely manner, must be specific and must demonstrate that such grounds do in fact exist.

## 7. Standard of Proof

Unlike the standard of proof commonly used in criminal cases and usually known as "proof beyond a reasonable doubt", the standard of proof to be used by the Committee will be the "balance of probabilities" or "preponderance of evidence". By this is meant "more likely than not" in the sense that an unbiased observer, having reviewed all the evidence and having heard all sides of the story, should be able to say: "the fair decision in this case is 'X' more likely than not".

In alleged cases of academic dishonesty or in other cases which call into question the very nature and operation of the University, the balance of probabilities, when used as the standard of proof, needs to be at the higher end of the scale and must be based on clear and compelling evidence.