



STUDENT APPEAL PROCEDURES

Approved by Senate

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STAGES IN AN APPEAL

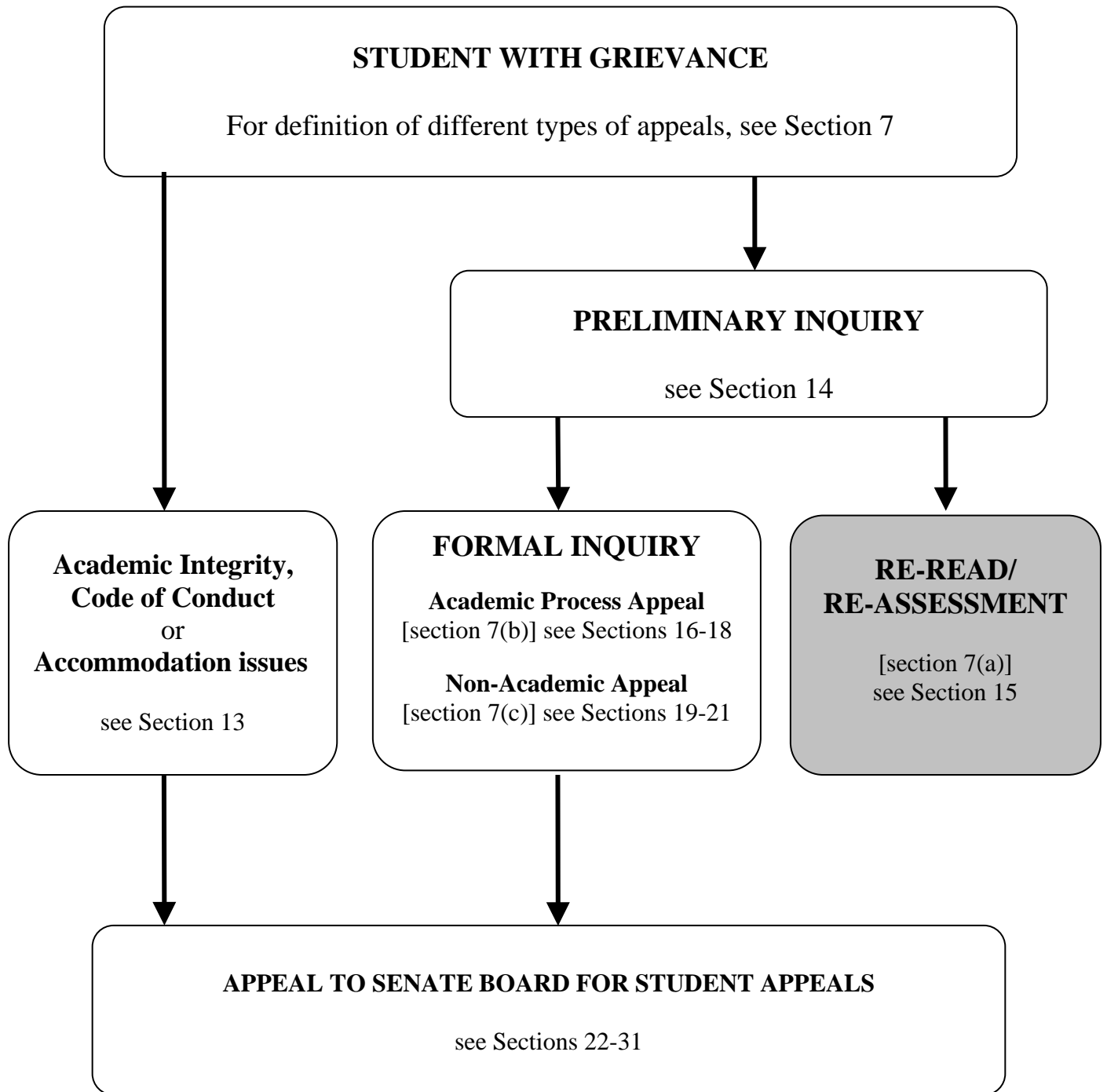


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STUDENT APPEAL PROCEDURES

INTRODUCTION

1. The University has a responsibility to provide fair and equitable procedures for the lodging and hearing of student complaints arising out of University regulations, policies and actions that affect students directly. The procedures described in this document are intended to provide a mechanism to fairly address alleged injustices.
2. The University Secretary is the administrative officer responsible for the receipt and processing of appeals, for the scheduling and holding of hearings before the Senate Board for Student Appeals (the Board) and for the training of Board members. Students are requested to speak with the University Secretary regarding a complaint before submitting an application.
3. Students who wish to raise questions or who have a concern are strongly encouraged to communicate *informally* with their instructors, Departmental Chairs, the relevant Associate/Assistant Dean of their Faculty, or of Graduate Studies, the University Ombud, and/or the appropriate administrative officer *before* seeking a review under formal procedures. Experience shows that the great majority of questions or complaints can be resolved satisfactorily through informal communication.
4. An appeal on the same set of facts cannot be submitted under two different University policies at the same time. If necessary, the University Secretary can advise on the most appropriate route for an appeal. Where there is a substantial overlap of jurisdiction between two or more University policies, the University Secretary may determine that the appeal should be considered by an appropriate joint tribunal.
5. Students who seek special consideration (e.g., permission to take courses at another university, deferred examination privileges or leave of absence), or who wish to request that the application of a particular University or Faculty regulation be waived because of compelling medical, personal or family reasons, should submit a Petition for Special Consideration. Petitions for Special Consideration ('Petition') are not part of this Policy. Students wishing to bring a Petition should consult the appropriate section of the relevant Graduate or Undergraduate calendars. Decisions based on a Petition for Special Consideration cannot be appealed under this policy.

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6. For the purpose of interpreting this document,
- words in the singular may include the plural and words in the plural may include the singular,
 - for students in degree programs not offered by a Faculty (e.g., the Arts and Science program), the Program Director is equivalent to the Associate/Assistant Dean of a Faculty, and the Chair of the Program Hearings Committee is equivalent to the Faculty Dean, and
 - for students in Senate-approved certificate or diploma programs offered by the Centre for Continuing Education, the Director of the Centre is equivalent to the Associate/Assistant Dean of a Faculty, the program co-ordinator is equivalent to the Department Chair and the Provost is equivalent to the Dean of the Faculty.

I TYPES OF APPEALS

7. The student appeals to which these procedures apply must fall into one and only one of the following three categories:

**a) Re-Read/
Re-assessment:** A student questions his/her grade or the assessment of his/her performance on a piece of work or a program component (other than work that is excluded from a re-read/re-assessment under Section III C of this policy) and alleges error in the *academic assessment* of his/her work on the part of an instructor or a committee. In order to qualify for a re-read/re-assessment, the piece of work or program component must be worth 10% or more of the final course grade.

The results of a formal re-read/re-assessment are final and cannot be appealed.

**b) Academic
Process:** A student questions his/her grade or the assessment of his/her performance on a piece of work or in a course, or his/her academic standing or status in a program, and alleges *error or injustice* on grounds *other than the academic assessment* of his/her work, such as:

- (i) the method of evaluation was not fair and reasonable in the circumstances; *or*
- (ii) the instructor was biased against the student; *or*
- (iii) the instructor deviated substantially from the course outline in contravention of applicable University policies; *or*
- (iv) the application of University regulations governing program or degree requirements was not fair, just, or reasonable; *or*
- (v) a finding of academic dishonesty, or the penalty assigned, was not fair, just or reasonable. (*see Section 13*)

c) Non-Academic: A student questions as unfair, unjust or unreasonable, a decision or action of a University authority or official, which has negative material consequences for his/her University life, and which is unrelated to courses, or to program or degree requirements.

These Appeal Procedures do not apply to any of the following:

- i) any decision of the University Senate or of the Board of Governors;
- ii) Liquor Offences;
- iii) Parking or Traffic Violations;
- iv) Grievances by students in their capacity as Teaching Assistants;
- v) Petitions for Special Consideration;
- vi) decisions on Admission or Re-admission to the University
- vii) any complaint or grievance by a post-graduate medical resident arising out of his/her post-graduate education;

or, matters coming within the jurisdiction of:

- viii) the Discrimination and Harassment Policy and the Sexual Violence Policy;
- ix) Divinity College matters, except for those academic matters specifically governed by the University Senate;
- x) any policies identified, from time to time, by the University Senate as not having an appeal route to the Board.

8. Only students of McMaster University may appeal to the Board. A 'student' is defined for the purposes of these Procedures as any individual recorded by the University Registrar as enrolled in an educational course of study recognised by the Senate and for whom the University maintains educational records.

II TIME LIMITATIONS

9. Time shall be considered critical to the fair disposition of inquiries or appeals.
10. Students shall seek remedies as promptly as possible. Any deadlines outlined in other policies such as the [Academic Integrity Policy](#) and the [Code of Student Rights and Responsibilities](#) must be met. Where there are no deadlines imposed by another policy, a student must submit the appropriate form to the appropriate office by July 31 immediately following the Fall/Winter Session or by November 15 immediately following the Spring/Summer Session in which the grievance has occurred.
11. Each inquiry, response, or other remedial step should be taken by the student and by the responsible authority or committee within the period specified. If the responsible authority or committee is unable to provide a response within the specified period, the student should be informed of that fact and of when the response will be provided.
12. The lack of timely action or response by either party, however, does not necessarily preclude either party from proceeding to the next step in the procedure. If the grievance results in an appeal to the Senate Board for Student Appeals, the validity of the reasons for any such delays will be taken into account by the Board in deciding whether the appeal will be heard (see Section 31).

III PROCEDURE

A. CERTAIN APPEALS DIRECTED TO HEARING AT THE OUTSET

13. Where a student wishes to commence an appeal related to the following:

a finding of and/or penalty for:

- (i) academic dishonesty (under the [Academic Integrity Policy](#));
- (ii) misconduct (under the [Code of Student Rights and Responsibilities](#));

or

- (iii) a decision of an Associate Dean, Dean or Provost under the policy on Academic Accommodation of Students with Disabilities

and where an appeal is allowed under any such policy, then the student is referred directly to Section 22 of these Procedures.

B. PRELIMINARY INQUIRY

14. (a) For any of the three types of appeals, the student shall initiate a preliminary inquiry into the issue by going directly to the appropriate instructor, officer or University authority. Normally, this individual will be the person or the chair of the committee whose decision or action is being questioned. (*Consult the University Secretariat, the University Ombud, or the Office of the appropriate Associate/Assistant Dean for assistance in determining the appropriate officer or University authority.*)
- (b) Where there is no timely response to the preliminary inquiry, and/or where the student wishes to seek a further remedy, he/she may submit an Application for a Formal Re-Read/Re-Assessment (Form A) or for a Formal Inquiry (Academic Process or Non-Academic) (Form B). For a Re-Read/Re-Assessment, follow the procedures beginning at Section 15; for an Academic Process Appeal, follow the procedures beginning at Section 16; for a Non-Academic Appeal, follow the procedures beginning at Section 19.
- (c) No official or committee may hear an inquiry or appeal of its own decision. Where such an event may occur, the appeal shall be directed to the next highest ranking official or his/her delegate. For example, in the case where the initial decision of the Associate/Assistant Dean is the subject matter of the appeal, then the Dean or his/her delegate shall hear the matter.

C. RE-READ/RE-ASSESSMENT

Note: Master's and doctoral theses are excluded from these re-read/re-assessment procedures, as are PhD comprehensive examinations, Objective Standard Clinical Examinations (OSCE) and supervisory committee reports.

15. (a) Upon payment of the appropriate fee,* a student may apply for a re-read/re-assessment of his/her essay, examination, laboratory report, etc. In this event [Form A \(Application for a Formal Re-Read/Re-Assessment\)](#) shall be submitted to:
- the appropriate Associate/Assistant Dean of the Faculty offering the course,
- (b) The following procedures shall apply:
- (i) The student shall submit, with Form A, the receipt for the re-read/re-assessment fee, to be determined annually by the Board of Governors.
 - (ii) Within one week of receiving Form A, the Associate/Assistant Dean shall submit a copy of the Application for a Formal Re-Read/Re-Assessment to the Chair² of the appropriate Department, and the Chair shall select a qualified reader who may be an external reader. The Chair shall provide the reader with a copy of the student work in question and shall protect the anonymity of the student and the impartiality of the reader by ensuring that all identifying material, along with the original instructor's comments and markings, has been removed.
 - (iii) Within three weeks of submission to the reader, the Chair shall secure the results of the re-read/re-assessment and report those results to the Associate/Assistant Dean.
 - (iv) The re-read/re-assessment results shall be considered in accordance with procedures approved by the appropriate Faculty. In the absence of an established Faculty policy, the following shall apply:
 - A grade change of three points or greater on the McMaster University twelve-point grading scale (e.g. B to A, but *not* D+ to C-); *or*
 - A grade change that determines a Pass or Fail on the course; or

* The fee for a re-read/re-assessment is payable in advance at Financial Services, Gilmour Hall, Room 209. The receipt must be attached to Form A. If the re-read/re-assessment results in an increase in the student's grade, as defined in s. 15(b) (iv), the fee will be refunded.

- A grade change that affects the eligibility of the student for entry into a program;

shall result in a revision of the grade and will be reflected in the course mark.

- (v) The Associate/Assistant Dean shall notify the student and the instructor of the decision in writing, normally within three weeks of receiving the Chair's report. If the grade is raised as the result of a re-read/re-assessment [as defined in (iv)] the fee will be refunded.

D. FORMAL INQUIRY - ACADEMIC PROCESS APPEALS

16. For inquiries related to Academic Process Appeals, and subject only to the conflict of interest provision in Section 14(c) above, **Form B** (**Application for Formal Inquiry**) shall be submitted to:

- the appropriate Associate/Assistant Dean of the student's Faculty,¹

unless the inquiry relates to a decision of the Associate/Assistant Dean, or of a Faculty Committee, in which case Form B shall be submitted to the Dean of the Faculty.

17. (a) Upon receiving an Application for Formal Inquiry of an Academic Process issue, the responsible Associate/Assistant Dean shall submit a copy of the Form B to the Chair² of the Department involved.
- (b) The Chair shall conduct an investigation based on the student's written submission, may attempt to resolve the matter, and shall submit a written report to the Associate/Assistant Dean.
- (c) Following receipt of the Chair's report, the Associate/Assistant Dean may also attempt to resolve the matter, shall make a decision and shall respond to the student in writing with reasons. This response should be provided within three weeks of receiving the Application for Formal Inquiry. (For further remedy, see Section 18.)
- (d) Where the inquiry is based on a decision of an Associate/Assistant Dean or of a Faculty committee, the Dean or the Dean's delegate shall conduct an investigation based on the student's written complaint, may attempt to resolve the matter, shall make a decision, and shall respond to the student in writing with reasons, within three weeks of receiving the Application for Formal Inquiry. (For further remedy, see Section 18.)

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18. If the student seeks a further remedy for an Academic Process grievance he/she may, following notification of the Form B decision or if he/she has not received a timely response, follow the Appeal procedures outlined in Sections 22-31.

E. FORMAL INQUIRY - NON-ACADEMIC APPEALS

19. For inquiries related to Non-Academic appeals, and subject to the conflict of interest provision in Section 14(c) above, **Form B (Application for Formal Inquiry)** shall be delivered to the immediate superior of the individual whose decision is being questioned. Students may consult the University Secretariat for assistance in determining the appropriate individual to whom Form B should be submitted.
20. Upon receiving an Application for Formal Inquiry of a Non-Academic issue, the responsible University officer shall conduct an investigation based on the student's written submission, may attempt to resolve the matter, and shall respond to the student in writing with reasons, within three weeks of receiving the Application for Formal Inquiry.
21. If the student seeks a further remedy of a Non-Academic issue, he/she may, following notification of the Form B decision or if he/she has not received a timely response, follow the Appeal procedures outlined in Sections 22-31.

F. PROCEDURE FOR APPEALS TO SENATE BOARD FOR STUDENT APPEALS (Academic Process and Non-Academic Appeals)

22. An appeal is the final step a student may take within the University to secure a remedy for any of the types of Appeal described in Section 7 b and c and Section 13.
23. The decision from a lower level stays in effect unless and until it is overturned on appeal. This means that submitting an appeal will not prevent the decision being appealed from being carried out.
24. The Senate Board for Student Appeals has sole jurisdiction to hear and to make a final adjudication of appeals based on an Academic Process or Non-Academic appeal not otherwise delegated to another body (see Section 7).

Any request for direct monetary compensation from the Board or the Senate shall not form part of an appeal before the Board. In some instances an appeal may involve matters outside Senate's jurisdiction and may require action by the Board of Governors, such as decisions involving financial implications. In such instances, the tribunal's decision may take the form of a recommendation to the Board of Governors, with the Board of Governors maintaining the discretion to accept or deny such a recommendation.

25. Parties to every student appeal shall include:

- (a) the Appellant, who shall be the student who claims an injustice or error has occurred; and
- (b) the Respondent, who shall be the University instructor, authority or officer whose decision or action is being appealed.

26. **Onus, Burden of Proof and Basis of Decision**

In any appeal, the Appellant shall bear the onus of showing, on the balance of probabilities (see Glossary, Appendix B), that an injustice or error has occurred at the level of the decision being appealed.

The function of the Board is to determine, on the basis of the evidence presented to it, whether the initial decision maker acted or decided the matter in an unfair, unreasonable or unjust way.

27. Within three weeks of receipt of the decision on the Formal Inquiry, *or, for students referred directly from Section 13 above, within the relevant policy deadline*, the Appellant shall complete [Form C](#) (**Application for Hearing before Senate Board for Student Appeals**) and deliver it to the University Secretary. The application shall include the following information:

- a) a statement (description) of the grievance;
- b) the precise grounds for the appeal;
- c) the relief sought;
- d) preference for closed or open hearing;
- e) names of witnesses to be called and 'will say' statements of such witnesses (prepared by the Appellant - see Glossary, Appendix B);
- f) name of Appellant's counsel, if applicable;
- g) a copy of the decision being appealed; and
- h) any documents the Appellant wishes to submit to the Board as evidence in support of the appeal.

Within one week of receipt of the completed application, the University Secretary shall forward a copy to the Respondent.

No matter shall be placed before the Board unless the Appellant has completed, to the satisfaction of the University Secretary, the requisite submissions outlined above. The University Secretary shall notify the Appellant of any deficiencies in the submission. If these deficiencies are not corrected within the timeframe specified by the University Secretary, the appeal may be disallowed for lack of completeness or for non-compliance

with procedures. In the event that the University Secretary is unable to contact the Appellant at the last known address, the appeal shall be considered withdrawn.

28. Within three weeks of receipt, the Respondent shall deliver to the University Secretary a written reply to items (a) to (c) of the Appellant's application and shall submit the following information:
- preference for open or closed hearing;
 - names of witnesses to be called and 'will say' statements of such witnesses (– prepared by the Respondent - see Glossary, Appendix B);
 - the name of Respondent's counsel, if applicable; and
 - any documents the Respondent wishes to submit to the Board as evidence in support of his/her position;
 - any request that a preliminary determination of jurisdiction or summary dismissal be heard (see Glossary, Appendix B).

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

The University Secretary may also refer a matter to the Chair of the Board pursuant to Section 6 of the Procedural Rules (Appendix A) should the University Secretary be of the opinion that the Board lacks jurisdiction to hear the appeal.

- 29.. The hearing of an appeal shall be before a tribunal consisting of at least three members or auxiliary members of the Senate Board for Student Appeals (see Glossary, Appendix B), one of whom shall be a student member. The Chair of the Senate Board for Student Appeals shall approve the tribunal Chair and tribunal members.
30. The hearing shall be conducted in accordance with the principles of natural justice, namely the rights to receive notice, to be heard and to know the case against one. The hearing shall follow the applicable procedural rules specified in the *Statutory Powers Procedure Act*, and set out in Appendix A.
31. **Issue Of Jurisdiction Or Summary Dismissal**

If requested or referred under Section 28 above, preliminary matters of jurisdiction or a request for summary dismissal shall be heard in a special session convened by the University Secretary (see Section 6 of the Procedural Rules, Appendix A). At such session, the Chair or Vice-Chair of the Board shall determine, on an interpretation of these Procedures, the materials filed, and the argument of the parties, whether:

- a) the Board has jurisdiction to hear a matter; or,
- b) the appeal or any portion of the appeal should be dismissed without further hearing because:

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- i) the Appellant has failed to disclose a *prima facie* case (see Glossary Appendix B) to be heard by the Board (which shall include, without limitation, an appeal which is frivolous, vexatious or groundless, or where the Appellant has failed to advance any arguments to support his/her belief that the Respondent's decision was unfair, unreasonable or unjust); or
 - ii) timelines have not been complied with and there is no valid reason to explain the delay.

The Chair or Vice-Chair shall advise the parties of his/her determination within a period of four (4) weeks by way of a preliminary procedural or final order, as the case may be.

¹ If the grievance concerns a matter outside the jurisdiction of the student's Faculty the Associate/Assistant Dean of the student's Faculty shall forward the appropriate form (Form B) to the Associate/Assistant Dean of that other Faculty, who shall carry out the procedure described in Section 17 and forward a copy of his/her response to the Associate/Assistant Dean of the student's Faculty.

² In the Faculty of Health Sciences, the Assistant Dean of the Program involved shall be the equivalent of the Department Chair, except in cases where the Assistant Dean has had previous involvement in the decision-making process, in which case the matter may be delegated to another impartial faculty member in the program.

APPENDIX A: Procedural Rules for Formal Hearings

I INTRODUCTION

1. The *Statutory Powers Procedure Act* of Ontario establishes minimum rules by which certain tribunals must proceed, to ensure that the basic principles of natural justice have been observed. When the procedures of a tribunal incorporate these principles, the tribunal will have satisfied the requirements of being fair to the parties before it.
2. Because the *Statutory Powers Procedure Act* provides fundamental rules, rather than a detailed set of procedures for the conduct of hearings, tribunals have some discretion to establish the actual manner in which the hearing will be conducted.
3. The Senate Board for Student Appeals requires its tribunals to follow the procedures detailed below.
4. The members of the tribunal must not hear evidence or receive representations regarding the substance of the case other than through the processes, hearings and consultations provided for in this policy.
5. Parties are encouraged to settle any and all disputes prior to a hearing before the tribunal. In the event that the issue is settled between the parties prior to any hearing before the tribunal, the appeal may be withdrawn by mutual agreement of the parties. Once a hearing has commenced, however, any settlement proposed by the parties must be approved by the tribunal before the matter can be dismissed or resolved.

II PRELIMINARY HEARINGS

6. Upon written notice to all parties (in accordance with Appendix A, Section 9), the University Secretary shall convene a preliminary session whereat the Chair or Vice-Chair shall determine, based on an interpretation of these Procedures, the materials filed, and the argument of the parties, whether the Board has jurisdiction to hear the matter or whether there are grounds for summary dismissal (see Glossary, Appendix B).

Order of Preliminary Hearing

The following procedures shall apply:

- the Board and any party shall be entitled to counsel;
- the Preliminary Hearing shall be open unless either party requests that it be closed, in which case the Chair shall make a ruling on the request;
- oral arguments shall be limited to a maximum of one hour each unless the Chair or Vice-Chair upon request rules otherwise;

- only the Chair shall be permitted to question the parties;
- no additional evidence shall be presented without the express permission of the Chair or Vice-Chair;
- no witnesses shall be called.

At the outset of the hearing, the Chair shall:

- (i) review the grounds on which the preliminary hearing has been established, i.e. jurisdictional issues or request for summary dismissal,
- (ii) note for the record the documentary information submitted by the parties,
- (iii) invite the Respondent to present arguments regarding jurisdiction or summary dismissal,
- (iv) invite the Appellant to respond to the arguments in favour of dismissal,
- (v) if the hearing is to proceed, inquire of the parties as to potential agreement or clarification on issues or evidence and available future hearing dates.

Based on the materials filed and the arguments presented at the hearing, the Chair or Vice-Chair of the Board shall determine if the appeal should proceed and shall advise the parties of such determination within a period of four (4) weeks by way of a preliminary procedural or final order, as the case may be. If the matter proceeds to a tribunal hearing, the report from the preliminary hearing will be provided to the tribunal. In addition, the Chair may issue additional recommendations or directives which clarify the issues, confirm agreement between the parties as to various facts and set specific available hearing dates for the parties. The preliminary hearing will provide an opportunity to focus and clarify the issues under appeal and the evidence relevant to those issues.

III TRIBUNAL HEARINGS

Notice of Hearing

7. A hearing shall be commenced as soon as possible following the appointment of the tribunal.
8. An attempt shall be made to schedule the hearing at a time and place convenient for the tribunal and for the parties to the appeal. However, any party whose reasons for absence are not considered valid by the tribunal's Chair, or whose absence may cause unreasonable delay, shall be notified that the tribunal will proceed in that party's absence.
9. The parties shall be given reasonable, written notice of the hearing. In the case of the student, the notice shall be mailed to the student's last known address, as recorded in the Registrar's Office, and shall be deemed to be received one week after it was mailed.

Open or Closed

10. Hearings are normally open to the public, but any party to the appeal may request a closed hearing. The possible disclosure of certain matters may indicate the need for a closed hearing, such as matters of public security, intimate financial or personal details, or other matters that may have a substantially adverse effect on the interests of any person or on the public interest.
11. The tribunal shall make the decision on whether the hearing shall be open or closed. If a request by one or both of the parties to the appeal to close the hearing is made prior to or during the hearing of a case, the Chair of the tribunal hearing the appeal shall close the hearing for the purpose of discussing the request. After listening to the arguments for closing, the tribunal shall decide whether, in accordance with Section 9 (1) of the *Statutory Powers Procedure Act*, sufficient cause for closing exists. If not, the hearing will be re-opened.

Order of the Hearing

12. (a) The first item of business for the tribunal shall be to determine whether the hearing shall be closed, in accordance with the procedure set out in clause 11 above.
- (b) At the outset of the hearing, the Chair shall:
 - (i) review the order of the hearing,
 - (ii) note for the record the documentary information submitted by the parties to the hearing, and the results of any preliminary hearing, including any preliminary or procedural orders,
 - (iii) note the names of the witnesses for each party,
 - (iv) determine the likely dates for sitting and the projected length of the hearing,
 - (v) raise, or request the parties to raise, any and all preliminary issues concerning composition of the tribunal and other unaddressed procedural matters, and
 - (vi) proceed to deal with any matters raised in (v) above before the commencement of the substantive portion of the hearing, by either proceeding directly to the hearing or considering and rendering a decision on matters raised in (v) above.

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- (c) The Appellant is the first party heard.
- (i) *Appellant's opening statement* shall contain:
- a brief description of his/her grievance, including what he/she believes was unfair, unjust or unreasonable about the action or decision being appealed; and
 - what remedy he/she seeks.
- (ii) *Appellant's case* provides the factual support to show why his/her grievance should be remedied and may include any or all of the following:
- Appellant's oral testimony;
 - oral testimony of Appellant's witnesses; and
 - documents or other written evidence in support of this testimony.
- (iii) Questioning of the Appellant and his/her witnesses by the Respondent and/or by the tribunal occurs at the close of each person's testimony.
- (d) Following the completion of the Appellant's case, the Respondent presents his/her case.
- (i) *Respondent's opening statement* shall contain:
- a brief reply to the Appellant's claims; and
 - the main arguments justifying the action or decision being appealed.
- (ii) *Respondent's case* provides the factual support to defend the action or decision being appealed and may include any or all of the following:
- Respondent's oral testimony;
 - oral testimony of Respondent's witnesses; and
 - documents or other written evidence in support of this testimony.
- (iii) Questioning of the Respondent and his/her witnesses by the Appellant and/or by the tribunal occurs at the close of each person's testimony.
- (e) The Appellant and his/her witnesses have the right to offer testimony or other evidence in reply to the issues raised in the Respondent's case.
- (f) After the testimony of each witness, the tribunal may, in addition to asking questions of the witness as permitted in clauses (b), (c) and (d) above, request copies of such documents mentioned in testimony as the tribunal in its discretion sees fit.

After this point in the hearing, no new arguments, evidence, or witnesses may be introduced.

- (g) The parties are entitled to make closing arguments, and to summarize briefly the main points of their cases, in the following order:
 - (i) Appellant
 - (ii) Respondent
 - (iii) Appellant.
- (h) The tribunal may alter the order described in sub-sections (a) to (e) above in the interest of fairness to any or all of the parties.
- (i) While procedural fairness is essential, the tribunal reserves its right to direct, curtail or encourage the organisation of witnesses, testimony and evidence in the interests of enhancing the clarity, relevance and efficiency of the proceedings.
- (j) The tribunal shall first warn, then caution, and may prohibit from continuing in such a manner, any party presenting testimony, evidence, argument or materials which are, in the reasonable opinion of the tribunal, irrelevant, un-provable, defamatory, vexatious or specious, or which impedes or prevents the tribunal from conducting the hearing or reaching a decision.

Other Parties

- 13. If other persons, in addition to the Appellant and the Respondent, have been specified as parties to the proceedings, the procedure described in sub-sections (a) to (j) above shall be altered by the tribunal to provide an opportunity for such additional parties to be heard.

Recess or Adjournment

- 14. The tribunal may consider and grant a recess or an adjournment at the request of either party to allow them to review written or documentary evidence submitted at the hearing.

The Tribunal may grant an adjournment at any time during the hearing to ensure a fair hearing.

IV OTHER PROCEDURES

Evidence

- 15. Parties to the appeal shall have knowledge of each other's case by means of the exchange of the application, the 'will say' statements of any witnesses (see Glossary, Appendix B) and the response before the hearing.

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16. The tribunal has the power to require production of written or documentary evidence by the parties or by other sources.
 17. The tribunal has the power to rule on the admissibility of evidence.

Witnesses

18. Parties to the appeal and the tribunal have the right to call, question and cross-examine witnesses.
19. Any person appearing before the tribunal as a witness shall be required to give evidence under affirmation or oath.
20. The tribunal has discretion to limit the testimony and questioning of witnesses to those matters it considers relevant to the disposition of the case.
21. **Parties are responsible for contacting their own witnesses; for making all arrangements for witnesses to attend the hearing;** for paying any costs associated with their appearance before the tribunal; and for absorbing the costs of any legal counsel attending on their behalf.
22. The tribunal Chair has the power to compel an unwilling witness to attend, and parties may contact the University Secretariat to request the Chair's assistance in this regard. The power to compel a witness is derived from the *Statutory Powers Procedure Act*. An unwilling witness may be compelled by the Chair under summons to testify where the "will say" statement demonstrates the witness' testimony is relevant and related to alleged facts of the appeal.
23. Other than parties, witnesses are present in the hearing room only during the time they are testifying.
24. No witnesses shall be allowed to appear at the hearing unless:
 - i) a 'will say' statement has been provided prior to the hearing, and
 - ii) a party expressly requests permission for an additional witness to appear and the Tribunal consents.

Representation

25. Parties to the appeal have the right to be represented at the hearing by another person or to represent themselves.
26. The costs of any representation are to be borne by the party retaining such representation. The tribunal cannot award costs in respect of any hearing or any proceeding culminating in a hearing before the Board.

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27. The Chair of the tribunal may choose to have legal counsel for the tribunal present during a hearing.

Recording

28. Although the hearing shall be recorded in order to obtain an accurate record of the proceedings, such recording is done for convenience purposes only and the malfunction of the recording device or subsequent loss of the recording shall not invalidate, in any way, the related hearing. The recording shall be held in confidence by the University Secretariat for a period of three years from the date of the hearing. Any party to the appeal may request access to the recording and the reproduction thereof, upon reasonable notice and payment of the reasonable costs associated therewith.

Similar Questions of Fact or Policy

29. If two or more proceedings before the Senate Board for Student Appeals involve the same or similar questions of fact or policy, the Chair of the Board, after consulting with the parties, may decide:
- (i) to combine the proceedings or any part of them,
 - (ii) to hear the proceedings at the same time, or
 - (iii) to hear the proceedings one immediately after the other.

Appropriate procedures

30. Where any procedural matter is not dealt with specifically in this Policy or the Rules, the tribunal may, after hearing submissions from the parties, establish an appropriate procedure.
31. Any procedural requirement contained in this Policy or in the Rules may be waived with the consent of the tribunal and of all the parties.

V DELIBERATIONS BY THE TRIBUNAL

32. Following the formal hearing, the tribunal shall deliberate in closed session and shall reach a decision. After deliberation and decision in closed session solely with members of the tribunal is complete, the tribunal may solicit the assistance of the University Secretary and legal counsel regarding the precise form or wording of any order and reasons for judgement to support its decision.
33. The tribunal shall supply a written report of its decision with reasons to the University Secretary, who, in turn, shall distribute a complete copy thereof to the parties, and to such other individuals as the tribunal deems appropriate and/or necessary. The decision shall include:

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- (a) the membership of the tribunal,
 - (b) the background of the appeal,
 - (c) a summary of the case of Appellant and Respondent,
 - (d) the tribunal's findings of fact, and
 - (e) the tribunal's decision and the reasons for the decision.

The tribunal's decision shall be final and shall be reported to the Senate for information. In keeping with the spirit of the Academic Integrity Policy, student names will be removed from reports of appeals related to academic dishonesty. Where it occurs in a report, intimate personal information will also be removed from the report to Senate.

- 34. Subject to Section 33 above, the tribunal's decision on an appeal conducted in an open hearing shall be available to anyone upon request.
- 35. The tribunal's decision on an appeal that has been conducted entirely or partially in a closed hearing shall be available only to the parties directly affected by the report and to the members and observers of the Senate. The University Secretary may prepare a summary of the report for the public. The summary will include an outline of the nature of the case, and the tribunal's findings and decision, but will be sufficiently general that the individuals involved in the appeal cannot be identified.

Recommendation of Tribunal

- 36. Apart from its duty under these procedures to hear and decide the matters properly brought before it, any tribunal may make recommendations or suggestions to University bodies or members. Such recommendations are offered for informational purposes and shall be distinct and separate from the decision.

APPENDIX B: Glossary of Terms

Academic Term:

Term 1 of the Fall/Winter Session runs from September to December

Term 2 of the Fall/Winter Session runs from January to April

Term 3 of the Fall/Winter Session runs from September to April

Term 1 of the Spring/Summer Session runs from May to June

Term 2 of the Spring/Summer Session runs from June to August

Term 3 of the Spring/Summer Session runs from May to August

Academic Year:

The Academic Year is defined in the Bylaws of the McMaster University Senate as being from September 1 of one calendar year to August 31 of the following calendar year

Balance of Probabilities:

This represents the test to be met by an Appellant who, to be successful, must show, by the weight of the evidence presented, that all of the facts necessary to uphold the appeal have the greater likelihood of being true than not.

Stay of Decision:

A stay of decision would temporarily suspend an action or process until a finding has been made regarding the appeal.

Closed Hearing:

A hearing which is closed to all but those who have a specific right to be present.

Open Hearing:

A hearing where spectators and members of the public may be present.

Will Say Statement:

A 'will say' statement is a brief statement, submitted by the Appellant or Respondent, summarising the material facts which the Appellant, Respondent or respective witnesses will give as testimony during a hearing before the Board.

Summary Dismissal:

A summary dismissal of a case takes place when the Chair or Vice-Chair determines, on the basis of the submissions and oral testimony of the Appellant and Respondent, that the appeal should be dismissed prior to a hearing before a full tribunal.

Auxiliary Member of the Board:

The Chair of the Senate Board for Student Appeals has the authority to appoint, on an *ad hoc* basis and as the need arises, faculty and students who are not members of the Board to serve on appeal tribunals as Auxiliary Board Members.

Prima Facie Case:

A *Prima facie* case means a case which, after assuming the validity and credibility of the summarised testimony, otherwise meets the burden of proof under these rules for establishing a successful appeal.