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Parent Policy: [Student Conduct Policy](#)

Student Misconduct Appeal Procedure

Office of Administrative Responsibility:	University Secretary
Approver:	Board of Governors
Scope:	This procedure applies to the parties to a complaint, as defined in the <i>Student Conduct Policy</i> .

Overview

As an institution of higher learning, the University adopts procedures that reflect its academic mission, that is, it aims to foster a safe, vibrant and supportive **learning environment**. The University is committed to procedural fairness and **trauma-informed** practice to reduce harm throughout the student conduct process.

Section 31 of the *Post-Secondary Learning Act* (PSLA) gives General Faculties Council (GFC) authority to discipline students, “subject to a right of appeal to the board”.

To fulfill this appeal function, the Board has adopted and approved this *Student Misconduct Appeal Procedure* and has delegated the powers and functions in the appeal process to the persons identified in this procedure.

Purpose

This procedure sets out:

- the right of appeal for the **complainant** and the **complaint respondent**;
- the timelines within which to initiate an appeal and the required content of an appeal;

- the composition of the **Student Misconduct Appeal Panel** (the “Appeal Panel”) and the manner in which the Appeal Panel is constituted;
- the required training of the Appeal Panel members;
- the procedures for an appeal;
- the process used to address procedural requests;
- the procedures and powers of the Appeal Panel; and
- the service of documents related to the appeal.

Procedure

1. Right of Appeal

- a. Both the complainant and the complaint respondent have a right to appeal the final decision of the Student Conduct Officer to the Appeal Panel within 15 working days of the deemed receipt of the Student Conduct Officer’s decision.
- b. An **appellant** may appeal the decision of the Student Conduct Officer on the following grounds:
 - i. The Student Conduct Officer erred in their decision as to whether or not they had jurisdiction to apply the *Student Conduct Policy*;
 - ii. The Student Conduct Officer made an error in the finding of violation or no violation; and/or
 - iii. The Student Conduct Officer did not meet the duty of procedural fairness for reasons including, but not limited to:
 1. The appellant was not given a reasonable opportunity to provide information to the Student Conduct Officer;
 2. The appellant was not given a reasonable opportunity to respond to evidence or statements contrary to their account;
 3. The Student Conduct Officer was biased; and/or
 4. Any other denial of procedural fairness.

- c. The complaint respondent may appeal the decision of the Student Conduct Officer on any of the grounds set out in (b) above and on any other grounds, including but not limited to:
 - i. The sanction is outside of a reasonable range, given the nature of the violation, and/or
 - ii. Other specified grounds for the appeal.
- d. The appeal will be based on the **record** which was before the Student Conduct Officer.
- e. The Appeal Panel will determine whether:
 - i. The Student Conduct Officer decision contained errors to the extent that those errors would have a material effect on the outcome of the decision; or
 - ii. In the case of an appeal by the complaint respondent, the sanctions imposed by the Student Conduct Officer were unreasonable in the circumstances.

2. Initiating an Appeal

- a. A complainant and/or complaint respondent may seek assistance from an **advisor** throughout an appeal process.
- b. Any appeal of the decision of the Student Conduct Officer must be submitted to the **Appeals and Compliance Coordinator** within 15 working days of the deemed receipt of the Student Conduct Officer's decision.
- c. The written appeal must state the grounds for the appeal and include all available arguments, evidence or objections in support of the appeal.
- d. Either **party** can withdraw their appeal at any time.

3. Appeal Panel Members

- a. For each hearing the Appeal Panel will consist of one academic staff member as chair and two students. All Appeal Panel members (academic staff members and students) will be elected by GFC. In selecting members of the Appeal Panel, GFC will attempt to keep the membership of the Appeal Panel as broadly representative as possible given the available pool of candidates.
- b. GFC will elect a roster of up to seven academic staff members to serve as chairs of particular hearings ("Roster of chairs"). The Appeal Panel chairs will serve a term of up to four years.

- c. GFC will elect a roster of 10 undergraduate students and 6 graduate students (“Roster of Students”). All student members will be elected to serve a term of up to two years and are eligible for re-election.
- d. When constituting the Appeal Panel, members will be chosen from the rosters listed above. The Appeals and Compliance Coordinator will endeavour to ensure that the Appeal Panel chair and members are impartial and free from conflicts of interest.
- e. When a hearing involves an undergraduate student, the Appeal Panel will include at least one undergraduate student. When a hearing involves a graduate student, the Appeal Panel will include at least one graduate student. For the purposes of selection and service on the Appeal Panel, graduate students are considered to be from the Faculty where they receive supervision. Students who are in any joint graduate/undergraduate degree program (e.g., the joint MBA/LLB program) are considered to be graduate students for the purpose of service and selection on the Appeal Panel.
- f. Any Appeal Panel member who has been called to serve on the Appeal Panel for a particular case must complete their service on that case even if their term on an Appeal Panel expires or, in the case of student members, a student graduates or changes status from undergraduate to graduate.

Alternates

- g. If all Appeal Panel chairs are unable to serve, the Appeals and Compliance Coordinator may complete an Appeal Panel by selecting a member of the GFC AAC Panel of Chairs.
- h. If all student members from the Roster of Students are unable to serve, the Appeals and Compliance Coordinator may complete an Appeal Panel by selecting either one full-time undergraduate student or one full-time graduate student, from the GFC AAC Panel of Students.

4. Mandatory Training for Appeal Panel Members

- a. All Appeal Panel chairs, members and alternates must have completed the training outlined in the *Student Conduct Policy* before hearing any appeals.
- b. At the discretion of the chair, having regard to trauma-informed principles and practices, new Appeal Panel members may attend any oral hearing as observers for training purposes. Delegates of the Vice Provost and Dean of Students and/or General Counsel may also attend any oral hearing as an observer.

5. Procedures for an Appeal

- a. On receiving an appeal, the Appeals and Compliance Coordinator will be responsible for collecting and distributing documents to both parties and providing each party with the opportunity to respond to all relevant issues raised in any procedural request, appeal submission, response, the record, and the Student Conduct Officer's decision.
- b. As documents and materials become available, the Appeals and Compliance Coordinator will:
 - i. Provide to the appellant:
 1. Confirmation of receipt of the appeal;
 2. A list of on-campus resources;
 3. A copy of the record before the Student Conduct Officer and the opportunity to submit any supplemental appeal arguments and/or material arising from the record within 15 working days of receiving the record;
 4. The response to the appeal, and notice that the appellant may reply only to any new issues or materials contained in the response (appellant's reply) within 5 working days of receiving notice;
 5. The respondent's reply; and
 6. Any procedural requests from the appeal respondent and notice that the appellant may, within 5 working days of receiving notice, submit a response to the procedural request.
 - ii. Provide to the **appeal respondent**:
 1. The appeal, the record, and any supplemental appeal arguments and/or material submitted by the appellant (the full appeal);
 2. A list of on-campus resources;
 3. Notice that the response to the full appeal must be submitted within 15 working days of receiving the full appeal;
 4. If applicable, the appellant's reply, and notice that the appeal respondent may reply only to any new issues or materials contained in the appellant's reply within 5 working days (respondent's reply); and

5. Any procedural requests from the appellant and notice that the appeal respondent may reply to the procedural request within 5 working days.
- c. The appellant and appeal respondent must provide the name of their advisor to the Appeals and Compliance Coordinator.
 - d. The Appeals and Compliance Coordinator is responsible for organizing and administering the hearing. Accordingly, the Appeals and Compliance Coordinator will:
 - i. select a chair for the **hearing**;
 - ii. provide the parties with the name of the proposed chair and the names of all student members of the Appeal Panel;
 - iii. set the date(s) for the hearing in consultation with the Appeal Panel chair. Normally, hearings will be scheduled within 6 weeks from the date the appeal was received;
 - iv. where the hearing cannot be scheduled within the timeline noted above, give the parties written notice of the anticipated date for the hearing;
 - v. where both parties have appealed the decision, schedule both appeals to be heard together by the same Appeal Panel at a single hearing; and
 - vi. address any other matter for the purposes of organizing and administering the hearing.
 - e. The Appeals and Compliance Coordinator will constitute the Appeal Panel and provide its members and the parties with:
 - i. the date and time of the hearing;
 - ii. the decision of the Student Conduct Officer;
 - iii. the record on which the Student Conduct Officer decision was based; and
 - iv. all written appeal(s), supplementary appeal arguments and/or material, response(s) and any replies.
 - f. The Appeals and Compliance Coordinator will notify the parties of the date and time of the hearing.
 - g. The Appeals and Compliance Coordinator may take any other required steps in order to administer the appeal process.

6. Procedural Requests

- a. The chair will decide any procedural questions that arise both before and during the hearing, in consultation with the Appeals and Compliance Coordinator. The chair's decision on a procedural request will be decided in writing and may be made without an oral hearing. The chair's decision on a procedural request is final and binding.
- b. Procedural requests must be submitted in writing to the Appeals and Compliance Coordinator and include written reasons to support the request. Where the request affects the other party, the Appeals and Compliance Coordinator will notify the other party and allow them to respond or make submissions on the request before the chair makes a decision.
- c. Procedural requests include, but are not limited to:
 - i. Request that Appeal Panel chair or member not serve on Appeal Panel:
 1. After receiving the names of the Appeal Panel members, the parties will have 5 working days to submit a written request that the proposed Appeal Panel chair or member not serve on the appeal.
 2. These requests may be made only on the grounds that the proposed Appeal Panel chair or member may have a bias or conflict of interest that would prevent a fair hearing.
 3. If the request is granted, the Appeals and Compliance Coordinator will replace the proposed Appeal Panel chair or member with another member who will be selected by rotation from the same constituent group (i.e., academic staff, undergraduate student or graduate student).
 - ii. Request that sanctions be withheld until the appeal is decided:
 1. This request must be made within 5 working days from the date the appeal was submitted.
 2. If granted, the Appeals and Compliance Coordinator will direct the Registrar to:
 - a. remove any sanctions from the **central academic record**; and
 - b. withhold degrees, certification of marks and/or **transcripts** pending the outcome of the appeal.

3. Sanctions will be reinstated if the complaint respondent withdraws their appeal.
- iii. Requests for the Appeal Panel to consider new evidence or information that was not before the Student Conduct Officer in the record:
 1. The party making this request has the onus to establish that:
 - a. the new evidence or information is relevant; and
 - b. was not reasonably available at the time of the Student Conduct Officer hearing; and
 - c. they made the request as soon as possible after becoming aware of the new evidence or information.
 2. The chair may only grant this request where the test set out in (1) has been satisfied on a balance of probabilities
 - iv. Request to vary the format of the hearing(s):
 1. Appeal Panel hearings will normally be heard in writing but either party can request an oral hearing with the Appeal Panel.
 2. This request must be made well in advance of the date set for the hearing.
 - v. Request to extend any time limits set out in this procedure;
 - vi. Any other procedural request.

7. Procedures and Powers of the Panel

- a. The Appeal Panel will consider the entire record, the parties' appeal, response and reply documents, and where applicable, the parties' oral statements made at the hearing before coming to a decision, by majority vote.
- b. In considering their decision, the Appeal Panel will show deference to the Student Conduct Officer's decision, particularly with respect to the Student Conduct Officer's findings of facts and, accordingly, may only overturn a decision of the Student Conduct Officer where it was made on the basis of an error or errors that would have had a material effect on the outcome.
- c. The Appeal Panel has the power to grant an appeal, in whole or in part, only where:
 - i. the appellant establishes that the Student Conduct Officer incorrectly

1. found or did not find a real and substantial link to or material effect on the learning environment;
 2. acted outside of their authority under the *Student Conduct Policy*;
 3. defined the elements of a violation; and/or
 4. other similar ground related to the application or interpretation of *Student Conduct Policy*.
- ii. the appellant establishes that the findings of facts made by the Student Conduct Officer contain errors, such as
1. making a finding of fact without any evidence;
 2. considering irrelevant facts;
 3. giving undue weight to certain facts;
 4. misapplying the facts to the elements of a violation in the *Student Conduct Policy*; and/or
 5. other similar ground related to the facts.
- iii. the appellant establishes that there was a breach of procedural fairness in the Student Conduct Officer hearing, such as
1. the appellant was not provided with the opportunity to respond to an allegation or adverse evidence;
 2. the Student Conduct Officer did not provide reasonable disclosure of the investigation report;
 3. the Student Conduct Officer was not impartial;
 4. the appellant was not provided with information about or sufficient opportunity to secure an advisor; and/or
 5. other similar ground related to procedural fairness.
- iv. In addition to (c) above, the Appeal Panel may grant an appeal of sanction made by the complaint respondent only where the appellant establishes that the Student Conduct Officer assigned a sanction(s) outside of a reasonable range, having regard to the nature of the violation and other relevant surrounding circumstances.

Decision of the Appeal Panel

- d. Where the Appeal Panel grants an appeal, they have the power to do the following:
 - i. With respect to an appeal by the complainant, the Appeal Panel must remit the matter back to the Student Conduct Officer who made the decision or, where appropriate, a different Student Conduct Officer, to remedy the errors and issue a new decision.
 - ii. With respect to an appeal by the complaint respondent, the Appeal Panel may:
 - 1. grant the appeal and overturn the decision;
 - 2. grant the appeal and remit the matter back to the Student Conduct Officer who made the decision or, where appropriate, a different Student Conduct Officer, to remedy the errors and issue a new decision; or
 - 3. substitute a different sanction.
- e. The Appeal Panel does not have the power to overturn a consequence resulting from a failure to meet specified conduct conditions (see *Student Conduct Policy*, Schedule C, "Conduct Conditions"). Any appeal of conduct conditions must be made at the time the sanction is imposed and within the time limits set out in the *Student Misconduct Appeal Procedure*. If the conduct conditions are not met, no further appeal is available when the consequence is applied.
- f. The Appeal Panel's decision is final and is not subject to any further review or reconsideration by any University person or body.
- g. The chair of the Appeal Panel will communicate the decision to the Appeals and Compliance Coordinator, who will, as soon as possible, relay the decision to the parties and their respective advisors.
- h. The chair will normally submit the Appeal Panel's written reasons for the decision to the Appeals and Compliance Coordinator within 15 working days of reaching the decision. Where the written reasons are delayed, the Appeals and Compliance Coordinator will give written notice to the appellant and appeal respondent.

8. Service of Documents

- a. Any notices, communications, and appeal materials will be sent electronically using University accounts. See the *Electronic Communication Policy for Students and Applicants* in the *University Calendar*.

- b. On receiving the written decision, the Appeals and Compliance Coordinator will send a copy to the following individuals:
 - i. the appellant and appeal respondent, and their respective advisors;
 - ii. the Student Conduct Officer;
 - iii. the Vice-Provost and Dean of Students;
 - iv. the Office of General Counsel; and
 - v. members on the Appeal Panel.

- c. The Appeals and Compliance Coordinator may provide a copy or excerpts of the decision to any other University unit as may be appropriate to administer the sanction or for other authorized purposes, for example, to units including, but not limited to, the following:
 - i. where a sanction is to be noted on the student’s central academic record or transcript, the Appeals and Compliance Coordinator will inform the Office of the Registrar;
 - ii. where a sanction affects the student’s academic program, the Appeals and Compliance Coordinator will notify the respondent’s College or independent Faculty; and
 - iii. in programs jointly offered with another institution, the Appeals and Compliance Coordinator will provide a copy of the decision to the partner institution when the violation relates to the student’s conduct at that partner institution.

Definitions

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use.	
Party/Parties	The appellant or appeal respondent under this procedure.
Learning environment	The learning environment is to be understood broadly to encompass all aspects of University life. It includes:

	<ul style="list-style-type: none"> • physical and virtual spaces where University teaching, learning, work, research, residence, recreational and social activities take place; • University activities, events and functions, including, but not limited to, teaching, research, studying, work, administration, meetings, public service, travel, conferences, and training; public lectures, performances, student group events, and social or sports activities.
Trauma-informed	An approach to processes, procedures, and service provision that incorporates and responds to the effects of trauma. A trauma-informed approach takes into account the potential effects of trauma on cognition, memory and behaviour and incorporates steps to address the needs created by trauma and to prevent retraumatization.
Complainant	A reporting individual who elects to act as a party to the complaint or the person designated by the Dean of Students to act as a party to the complaint, on behalf of the reporting individual. Complainants have specified rights in the complaint process. This individual can be the appellant or the appeal respondent.
Complaint respondent	A student who is the subject of a complaint under the <i>Student Conduct Policy</i> . This individual can be the appellant or the appeal respondent.
Student Misconduct Appeal Panel	The decision-making body authorized to hear appeals of the decision of the Student Conduct Officer.
Appellant	A person who appeals the decision of the Student Conduct Officer under this procedure.
Record	The materials on which a decision of the Student Conduct Officer was based. The record includes the investigation report, any materials, statements, or responses provided to the Student Conduct Officer that were relevant to the question of whether an individual was in violation of the <i>Student Conduct Policy</i> and any information or materials, statements, or responses related to the consideration of appropriate sanction(s).

Appeals and Compliance Coordinator	The person responsible for administration of the <i>Student Misconduct Appeal Procedure</i> .
Appeal respondent	The person who responds to an appeal under this procedure.
Advisor	A person who assists an appellant or appeal respondent during the appeal process. Assistance may be provided by the Office of the Student Ombuds, Student Legal Services, legal counsel or another advisor as the parties choose.
Hearing	The opportunity for complainants and respondents to provide or respond to information, arguments, and evidence in a complaint process. A hearing can take the form of written document exchange and/or one or more oral meetings, either virtual or in-person, between the decision maker and each of the parties and witnesses, but will not involve face-to-face encounters between the parties, each other's advisors and/or witnesses.
Central academic record	A continuing record maintained by the Office of the Registrar, where all matters relating to courses, grades, and academic standing and probation are permanently recorded. Transitory notations, such as service indicators are also noted in the central academic record while they are in effect.
Transcript	A student's official academic record issued by the Office of the Registrar and bearing the signature of the Registrar. Information for the transcript is drawn from the central academic record. Information included on the University of Alberta transcript is found in the University Calendar.

Related Links

Sources of on-campus assistance

- [Office of the Dean of Students](#)
- [Office of the Student Ombuds](#)
- [Student Legal Services](#)
- [Students' Union \(SU\)](#)
- [Graduate Students' Association \(GSA\)](#)

- [l'Association des Universitaires de la Faculté Saint-Jean \(AUFSJ\)](#)
- [Augustana Students' Association](#)

Other conduct policies

- [Discrimination, Harassment and Duty to Accommodate Policy](#)
- [Information Technology Use and Management Policy](#)
- [Practicum Intervention Policy](#)
- [Protocol for Urgent Cases of Violent, Threatening or Disruptive Behaviour](#)
- [Residence Community Standards](#)
- [Sexual and Gender-Based Violence Policy](#)
- [Student Groups Procedure](#)

Information

- [University Calendar](#)
- [Electronic Communication Policy for Students and Applicants](#)

If any of the links are broken, please contact uappol@ualberta.ca