

 <b>CAPILANO UNIVERSITY</b>		<b>PROCEDURE</b>	
Procedure No.	Officer Responsible		
<b>B.109.1</b>	<b>Vice-President Academic and Provost and Vice President, Strategic Planning, Assessment and Institutional Effectiveness</b>		
Procedure Name			
<b>Student Appeals</b>			
Policy This Procedure is Under			Date of Next Policy Review
<b>B.109 Student Appeals</b>			<b>September 2029</b>
Date Issued	Date Revised	Date in effect	Related Policies
<b>November 6, 2018</b>	<b>September 24, 2024</b>	<b>September 24, 2024</b>	<b>S2018-01 Final Grade Appeal; S2017-05 Academic Integrity; B.701 Student Code of Conduct; B.401 Sexual Violence and Misconduct; E.702 Students Statement of Rights and Responsibility</b>

## 1. PURPOSE

- 1.1 The procedures set out in this document are designed to support B.109 Student Appeals Policy (the “Policy”) and govern the conduct of appeals.
- 1.2 All tribunal hearings will be guided by the principles of Procedural Fairness, and decisions will be based on the Balance of Probability. In particular, students have the right to:
  - a) Know in advance the representation composition (role) of the tribunal;
  - b) Make submissions to the Registrar (or alternate/designate) and tribunal in writing;
  - c) Have an oral hearing in cases of suspension and/or expulsion by the President;
  - d) Receive copies of all submissions made to the Registrar (or alternate/designate);
  - e) Enter a written reply to all submissions; and,
  - f) Receive a timely, written decision that gives a final disposition of the appeal.
- 1.3 The tribunal’s determination is final, and there is no further right to appeal.

## 2. DEFINITIONS

The definitions found in the Policy are used in these procedures.

### **3. APPLICATION FOR APPEAL**

3.1 The Appellant submits a completed application to the Registrar (or designate) that includes the following information (form available online):

- a) a statement (description) of the appeal;
- b) the Appellant's contact information;
- c) the precise grounds for the appeal (see Policy Section 4, clause 1);
- d) the important evidence that was missing, if applicable;
- e) the remedy sought;
- f) request for an oral hearing ONLY in cases of suspension and/or expulsion by the President;
- g) list of witnesses for the oral hearing, in cases of suspension and/or expulsion by the President;
- h) name of Appellant's counsel, if applicable;
- i) a copy of the decision being appealed; and
- j) any documents the Appellant wishes to submit to the tribunal as evidence in support of the appeal.

3.2 The deadline for submitting the application for appeal is within twenty-one (21) calendar days of the decision that is being appealed.

### **4. PROCEDURE FOR APPEAL APPLICATION**

4.1 All appeal correspondence will be electronic, through official Capilano University email addresses.

4.2 An Appellant must submit their completed application to the Registrar (or designate) or their alternate as appointed pursuant to Section 5.3 of the Policy) along with any supplemental materials. The Registrar (or alternate/designate) will review the application and will contact the Appellant, if there are any deficiencies in the application. These deficiencies must be corrected within the stated timeframe determined by the Registrar (or alternate/designate), or the application will be deemed incomplete, and the appeal will not be heard.

4.3 Once the Registrar (or alternate/designate) has determined the application is complete, they will determine if the application has met one of the stated grounds found in the Policy. If the Appellant has failed to advance any arguments to support their specified grounds for appeal, the Registrar (or alternate/designate) will dismiss the application for appeal. The Appellant will be notified, of this determination and the reasons why their application was dismissed, if applicable.

4.4 If the Appellant has not complied with the required timelines and there is no valid reason to explain the delay, the Registrar (or alternate/designate) may also dismiss the application for appeal. The Appellant will be notified, of this determination.

- 4.5 If the Registrar (or alternate/designate) determines that the application for appeal is complete and it has valid grounds, the Registrar (or alternate/designate) will forward the Appellant's application to the respondent within five (5) business days.
- 4.6 Within ten (10) business days of the receipt of the Appellant's application, the Respondent will deliver to the Registrar (or alternate/designate) any documents the Respondent wishes to submit to the tribunal as evidence in support of their position, and any response to the claims made by the Appellant.
- 4.7 Within five (5) business days of the respondent submitting their materials to the Registrar (or alternate/designate), the Registrar (or alternate/designate) will forward this information to the Appellant. The Appellant will have ten (10) business days to submit any material in response to the Respondent to the Registrar (or alternate/designate).
- 4.8 After the appellant addresses the Respondent's material, all materials collected by the Registrar (or alternate/designate) will be considered the appeal file.
- 4.9 Once the appeal file is complete, the Registrar (or alternate/designate) will form a tribunal as outlined in section 7 of the Policy), taking into consideration the following:
- a) Whether the appeal is academic or non-academic in nature;
  - b) Any conflicts of interest or perceptions of conflicts of interest;
  - c) Whether a request is made for an oral hearing in cases of suspension or expulsion;
  - d) The availability and workload of each member of the Student Appeals pool; and
  - e) Whether members are currently serving on a tribunal or tribunals.
- 4.10 Once the tribunal members are determined, the Registrar (or designate) will arrange for the tribunal members to receive a copy of the appeal file. The tribunal members will select a tribunal chair as stated in clause 7.5 of the Policy.
- 4.11 The tribunal will meet to make their determination within ten (10) business days of receipt of the appeal file.

## **5. TRIBUNAL PROCEDURES PRIOR TO HEARINGS**

- 5.1 Each tribunal member will review the completed appeal file separately prior to its initial meeting.
- 5.2 Tribunal members may request further materials through the Registrar (or alternate/designate) prior to the initial meeting. Such requests will be reviewed by the Registrar (or alternate/designate) who will determine if the requested evidence should be made available, based on the principles of Procedural Fairness.
- 5.3 If new evidence is obtained, a copy must be provided to both parties who must be given an opportunity to respond to the new material if they wish. The unavailability of the evidence will not delay the hearing process.

- 5.4 Tribunal members should not seek out any extra information themselves, but judge the case based on the evidence contained within the appeal file.
- 5.5 The tribunal members may, as a group, seek clarification on University policies and the principles of Procedural Fairness from the Registrar (or designate).

## **6. TRIBUNAL DETERMINATION WITH NO ORAL HEARINGS**

- 6.1 The tribunal members will normally set the time for the hearing within ten (10) business days after the processes described in Section 5 of this procedure have been completed.
- 6.2 The tribunal will decide on one of the following outcomes:
  - a) Hear and uphold the original decision;
  - b) Hear and uphold the original decision, but alter the penalty; or,
  - c) Hear and replace the decision.
- 6.3 Within five (5) business days of the tribunal's determination, the tribunal chair will send copies of the written decision, based on the tribunal's findings which normally will include a brief rationale, to the Registrar (or alternate/designate), who will provide the written decision to all relevant University parties. The Registrar (or alternate/designate) will provide the written decision and rationale to the appellant and respondent. The written decision and rationale will not prejudice any of the parties, or interfere with their privacy rights

## **7. TRIBUNAL DETERMINATION WITH ORAL HEARING**

- 7.1 The tribunal members will normally set the time for the hearing within ten (10) business days after the processes described in Section 5 of this procedure have been completed. The Registrar (or designate) will inform the Appellant and the respondent of the date and time of the hearing. The Respondent and appellant are responsible for informing their witnesses (if applicable) of the date and time of the hearing. Efforts will be made to accommodate individual schedules, but rendering a timely decision is of primary importance.
- 7.2 The tribunal members should not discuss any matters related to the appeal with the Appellant and the Respondent prior to the hearing, for any reason. Any queries should be directed to the Registrar (or alternate/designate).

### **Holding the Hearing**

- 7.3 The tribunal chair should begin by introducing everyone and stating their role in the tribunal, including, but not limited to tribunal members, Appellant, Respondent, and any support person for the Appellant or Respondent.
- 7.4 A support person cannot be a witness and cannot speak during the hearing.
- 7.5 Third party witnesses will be asked to wait outside the room until they are called upon to present their evidence.

- 7.6 The Appellant, Respondent, or tribunal has appointed legal counsel their attendance is also permitted at the hearing. The party must notify the Registrar (or alternate/designate) within a minimum of seven (7) calendar days that legal counsel will be present. This will allow for the other parties to obtain legal counsel if they choose. At the discretion of the Registrar (or alternate/designate), the hearing may be delayed to allow for the securing of legal counsel.
- 7.7 Tribunals will follow the principles of Procedural Fairness, with the Appellant and Respondent having the opportunity to present their argument and evidence. Tribunal members may question witnesses.
- 7.8 At the close of the hearing, the tribunal chair will indicate the approximate time length before a determination will be communicated.
- 7.9 The tribunal will decide on one of the following outcomes:
- a) Hear and uphold the original decision;
  - b) Hear and uphold the original decision, but alter the penalty; or,
  - c) Hear and replace the decision.
- 7.10 Within five (5) business days of the tribunal's determination, the tribunal chair will email the written decision, based on the tribunal's findings, which normally will include a brief rationale, to the Registrar (or alternate/designate), who will provide the decision to all relevant University parties. The Registrar (or alternate/designate) will provide the decision and rationale to the Appellant and Respondent via email. The written decision and rationale will not prejudice any of the parties or interfere with their privacy rights.

## **8. RECORD KEEPING**

- 8.1 A record of the oral hearings will be kept. All material produced at the tribunal hearing, including the original appeal file and any notes, will be gathered by the tribunal chair and provided to the Registrar (or designate).
- 8.2 Appeal files and tribunal determinations are confidentially maintained by the Registrar's Office and in accordance with B.700 Privacy and Access to Information Policy. Records relating to the appeals proceedings will be kept for a period of no fewer than seven (7) years following the completion of all actions pertaining to a particular appeal. After this time, records may continue to be kept on file if deemed necessary by the Registrar's Office, or will otherwise be confidentially destroyed.
- 8.3 Records are not available to be copied or viewed unless required by the procedures listed in this document, or for the purposes of external legal proceedings, in accordance with B.700 Privacy and Access to Information Policy.

## **9. ADMINISTRATIVE RESPONSIBILITY FOR THIS PROCEDURE**

The Registrar is responsible for managing and administering this procedure.

## **10. RELATED POLICIES AND GUIDANCE**

S2018-01 Final Grade Appeal

S2017-05 Academic Integrity

B.701 Student Code of Conduct

B.401 Sexual Violence and Misconduct

E.702 Students Statement of Rights and Responsibility

B.700 Privacy and Access to Information Policy

## **11. REFERENCES**

*University Act*, RBC 1996 s.35.2(5)(j)

Fairness by Design: An Administrative Fairness Assessment Guide. Canadian Council of Parliamentary Ombudsman (2022).