

 <b>CAPILANO UNIVERSITY</b>		POLICY	
Policy No.	Officer Responsible		
B.109	<b>Vice-President Academic and Provost and Vice President, Strategic Planning, Assessment and Institutional Effectiveness</b>		
Policy Name			
<b>Student Appeals</b>			
Approved by	Replaces	Category	Next Review
<b>Board</b>	<b>S1999-03 Academic Appeals; S2015-03 Student Appeals</b>	<b>Student</b>	<b>September 2029</b>
Date Issued	Date Revised	Date in effect	Related Policies
<b>June 19, 2018</b>	<b>September 24, 2024</b>	<b>September 24, 2024</b>	<b>B.701 Student Code of Conduct; B.401 Sexual Violence and Misconduct; S2018-01 Final Grade Appeal; S2017-05 Academic Integrity;</b>

## 1. PURPOSE

- 1.1 In accordance with the *University Act* 35.2 (5) the Senate of Capilano University (the "University") has the power and duty to set policies and procedures for appeals by students on academic matters and establish a final appeal tribunal for these appeals.
- 1.2 This policy outlines when and how students can appeal both academic and non-academic determination(s). Appeals will be managed in a reasonable manner, in accordance with the principles of Procedural Fairness and in alignment with the guidance provided by the Canadian Council of Parliamentary Ombudsman.
- 1.3 Prior to filing an appeal under this policy, a student must have pursued and exhausted all other reviews, appeals, or remedies provided by the University's other policies and procedures that relate to academic and non-academic standing. Appeals may only be made on the grounds of Procedural or Substantive Fairness relating to the previous process or determination. The grounds for appeal are outlined in section 4 of this policy. The appeal process under this policy is not intended to reopen previous hearings.

## 2. DEFINITIONS

**Appellant** – a student who claims an injustice or error has occurred.

**Balance of Probability** – the standard of proof used to determine findings of fact, requiring the evidence to show that the initial violation is more likely than not to have occurred.

**Procedural Fairness** (fair process) relates to the steps taken before and after making a decision or responding to a complaint. Procedural Fairness requires that:

- a) those directly impacted are given advance notice and adequate information in order to be able to meaningfully participate, enabled to state their case or communicate their concerns and be heard in the decision-making process;
- b) decisions are timely, with well explained reasoning for decisions provided, including:
  - i) the decision-making criteria, policy or legislation (decision making rules);
  - ii) the information and evidence (the facts) considered; and
  - iii) how the decision-making rules were applied to the facts.
- c) decision makers are impartial, unbiased and free from any conflict of interest and
- d) there is an adequate appeal/review process.

**Respondent** – the University instructor or administrator whose decision or determination is being appealed.

**Substantive Fairness** (fair decisions) relates to the fairness of the decision itself. Substantive Fairness requires that organizations establish lawful and fair and just rules and decision-making criteria that are not oppressive, unreasonably burdensome or improperly discriminatory and that decision makers:

- a) make well informed and well reasoned decisions that are:
  - i) consistent with university policies and any applicable laws and legal requirements;
  - ii) reasonable and fair (justifiable, transparent and understandable to those impacted) and
- b) exercise discretionary power fairly and reasonably.

### 3. SCOPE

3.1 **Academic Appeals** include appeals regarding:

- a) the application of S2018-01 Final Grade Appeal Policy;
- b) the determination of the sanctions imposed on students under S2017-05 Academic Integrity Policy; or,
- c) the application of any other University Policy that impacts a student’s academic standing.

3.2 Students may not appeal determinations that solely concern matters of academic judgment under this policy.

3.3 **Non-Academic Appeals** include appeals regarding:

- a) the determination of sanctions imposed on students under B.701 Student Code of Conduct Policy;
- b) the determination of sanctions imposed on students under B.401 Sexual Violence and Misconduct Policy; or
- c) the determination made under any other University policy that impacts the student’s non-academic standing.

#### **4. GROUNDS FOR AN APPEAL**

- 4.1 In any appeal, the Appellant must articulate the grounds for an appeal. All appeals are limited to any or one of the following grounds:
- a) on the Balance of Probabilities, that an injustice or error occurred when the determination of fact was made;
  - b) a University policy or procedure was incorrectly applied;
  - c) the adjudicating body exceeded its legitimate jurisdiction or authority; or
  - d) important evidence was ignored or not reasonably assessed.

#### **5. INITIATING AN APPEAL**

- 5.1 Within twenty-one (21) calendar days of receipt of the decision that the Appellant wishes to appeal under this policy, the Appellant will complete their application for appeal (see B.109.1 Student Appeals Procedures Section 3) and submit it to the Registrar.
- 5.2 The original determination will stay in effect unless and until it is overturned by this appeal process. This means that submitting an appeal will not prevent the decision being appealed from being enforced.
- 5.3 If the determination that is being appealed was made by the Registrar, the Vice-President Academic and Provost (for academic matters) or the Vice-President Strategic Planning, Assessment and Institutional Effectiveness (for non-academic matters) will appoint an administrator who has received the relevant training to oversee the appeals process. The Vice-President Academic and Provost or the Vice-President Strategic Planning, Assessment and Institutional Effectiveness will inform the Appellant through their Capilano University email regarding who has been appointed to oversee the appeal process as soon as the decision is made.
- 5.4 No matter will be referred to an appeals tribunal unless the Appellant has completed to the satisfaction of the Registrar (or designate) or alternate as per 4.4 above the application for appeal.

#### **6. STUDENT APPEALS TRIBUNAL POOL**

- 6.1 A pool of potential tribunal members (the "pool") will be created by the Registrar (or designate) for selection in impartial tribunals to hear and determine appeals.
- 6.2 The pool will be formed from:
- a) Faculty members who are Senators with a minimum of one from each Faculty;
  - b) Faculty members who are not Senators with a minimum of one from each Faculty;
  - c) Student members who are Senators with a minimum of one;
  - d) Student members who are not Senators with a minimum of three;
  - e) Staff members who are Senators with a minimum of one; and,
  - f) Staff members who are not Senators with a minimum of three.

6.3 The Registrar, in consultation with the Office of Student Affairs, will arrange for regular training for all new members of the pool and additional training after any significant changes to this policy or its supporting procedure.

## **7. STUDENT APPEALS TRIBUNALS**

7.1 The Student Appeals Tribunal holds the final decision-making authority regarding appeals held under this policy. The findings of the tribunal represent the final decision of the University.

7.2 When an appeal is scheduled, the Registrar (or designate) or their alternate as per 4.4 above will name a three-member tribunal selected from the student appeals tribunal pool to hear and determine that appeal. The Registrar (or alternate/designate) will not sit on tribunals.

7.3 For Academic Appeals, the tribunal will consist of two faculty members and one student.

7.4 Normally, for Non-Academic Appeals, the tribunal will consist of one faculty member, one staff member and one student. In the case of a highly sensitive matter, such as an appeal under the Sexual Violence and Misconduct Policy (B. 401), no student representatives will be included. In these cases, an extra faculty or staff member will be added to the tribunal.

7.5 The tribunal will select a hearing chair from among the faculty members or staff members. Students are not permitted to chair tribunals.

7.6 The lack of availability of a student member will not prevent a tribunal from proceeding within the time frames required in the procedures. A faculty or staff member will be added if no student member is available.

7.7 If a faculty member or a staff member is not able to complete their duties on a tribunal, they must inform the Registrar or the hearing chair, as soon as possible so that a new tribunal can be formed.

7.8 The tribunal must both appear to be and be neutral in the matter under consideration. The Registrar (or alternate/designate) will be responsible for ensuring that no tribunal member is in a conflict of interest. Any member of the pool selected for a tribunal must declare an actual, potential, or perceived conflict of interest to the Registrar (or alternate/designate) and step down from sitting on that tribunal. Examples of a conflict include situations where the member:

- a) teaches, works or is enrolled in the same program of study as the appealing student;
- b) has a personal relationship with the appealing student or the instructor or administrator who imposed the discipline or grade; or
- c) has some personal experience or professional involvement with the matter under appeal.

- 7.9 If any member of the pool knows or suspects that any tribunal member has a conflict of interest that they have not declared, that pool member has a duty to report that conflict to the Registrar (or designate). The Registrar (or alternate/designate) will appoint a replacement tribunal member. If external advice is required, the Vice-President Academic and Provost or the Vice President Strategic Planning, Assessment and Institutional Effectiveness as applicable will obtain that advice.
- 7.10 This same process will apply when a student alleges that there is a conflict of interest on the part of a tribunal member.

## **8. DESIGNATED OFFICER**

- 8.1 The Vice President, Academic and Provost and the Vice President, Strategic Planning, Assessment and Institutional Effectiveness are the Policy Owners, responsible for the oversight of this Policy. The Administration of this Policy and the development, subsequent revisions to and operationalization of any associated procedures is the responsibility of the Registrar.

## **9. RELATED POLICIES AND GUIDANCE**

B.701 Student Code of Conduct

B.401 Sexual Violence and Misconduct

S2018-01 Final Grade Appeal

S2017-05 Academic Integrity

## **10. REFERENCES**

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

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