

QUEEN'S UNIVERSITY SENATE POLICY ON STUDENT APPEALS, RIGHTS & DISCIPLINE

UNIVERSITY SECRETARIAT

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QUEEN'S UNIVERSITY SENATE POLICY ON STUDENT APPEALS, RIGHTS & DISCIPLINE

INTRODUCTION

This Senate Policy on Student Appeals, Rights and Discipline reflects the long history of student involvement in Queen's University governance, discipline and maintaining order at student functions, in the residences and elsewhere on campus. The intent of this Policy is twofold: to ensure that students receive fair treatment and are aware of their rights and responsibilities, and to establish a fair, efficient method of resolving academic and non-academic misconduct.

This document establishes a University wide body, the University Student Appeal Board (USAB), which provides a final internal appeal process, though there may be circumstances in which members of the University community may have resort to the courts. The USAB that is created by this document is intended to have a relatively narrow jurisdiction for dealing with appeals, recognizing that the decisions should generally be made by those who are most familiar with the context.

It is important for all faculty, administrators, staff and students who are involved in decision-making about students to be familiar with this Policy, and to advise students of their rights, including appeal rights and the right to seek the advice of the Ombudsman's Office or a University Dispute Resolution Advisor or to seek independent legal advice. The University encourages the informal resolution of disputes, which may be achieved with the assistance of a University Dispute Resolution Advisor or by the Ombudsman's Office, or by means of mediation.

1. Application of this Policy

- (a) This document applies only to discipline and appeals of students or student groups, and it applies only to discipline and appeals that are related to, or arise from, a person or group's capacity as a student or a recognized student group accordingly.
- (b) Other than as expressly stated herein, this Policy does not create, alter or eliminate any existing academic or non-academic misconduct procedures of first instance or internal appeals that are now, or may later be, in place.
- (c) This Policy does not apply to applicants seeking admission to the University or a program at Queen's whether or not the applicant is, or has been, a student in another program at Queen's.
- (d) This policy does not apply to students in PGME who are governed by the Postgraduate Medical Education program's Assessment, Promotion, and Appeals Policy ¹.

¹ see [PGME Assessment, Promotions, and Appeals Policy](#) ¹.

Commentary:

Queen's University does not grant rights to individuals seeking admission to the University or a to a program in which a student has not been previously registered. However, students who have been required to withdraw from the University and are seeking re-admission to the University have rights under this policy.

2. Liberal Interpretation

This policy, and any supplementary rules of procedure and directions, shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.

3. Definitions

decision-maker means a body or person who has been delegated directly or indirectly by Senate the power to hear academic or non-academic misconduct proceedings and render decisions that are binding upon the parties to the proceeding.

hearing means: (i) a hearing at which the parties or their representatives attend in person before a board; (ii) a hearing held by means of the exchange of electronic or hard-copy documents and without the attendance of the parties; or (iii) a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another.

internal appeal means an appeal from a decision made within a faculty, school, residence or society to a higher-level decision-making person or body within the same faculty, school, residence or society.

proceeding means any matter to which this policy applies that has been formally submitted for a hearing and a ruling of a decision-maker. It includes all steps from the initial filing of documents to the rendering of the decision. An appeal is one type of a proceeding.

student means anyone who is registered in an academic program at Queen's University on either a full-time or part-time basis, or was so registered at the time of the events upon which a proceeding of first instance and any subsequent appeal is based.

student group means any extracurricular organization or club that is recognized or ratified by a university entity such as the University's administrative officers, the Alma Mater Society (AMS), or the Society of Graduate and Professional Students (SGPS).

RIGHTS AND RESPONSIBILITIES OF STUDENTS**4. Rule-Making Bodies Required to Issue Rules**

- (a) Every rule-making body at Queen's shall issue rules on the nature and limits of the authority of all decision-makers to whom it has delegated power to act, and the rules shall be published for the benefit of those subject to that authority.

- (b) Every rule-making body at Queen's shall review and update regularly and publish for those within its jurisdiction any rules, regulations or statements of duties, the breach of which might give rise to academic consequences/sanctions, or discipline.
- (c) Faculties, schools and student societies, residences and other parts of the University community shall have explicit statements of the rights and responsibilities of students and shall clearly describe formal procedures with channels of appeal.
- (d) Rules and regulations promulgated by rule-making bodies shall be consistent with this Policy and other Senate policies. Rule making bodies shall specify the range of sanctions that apply to violations of particular rules and regulations.

5. Non-Academic Misconduct

Student non-academic misconduct is governed by the *Student Code of Conduct, 2016* and its related Procedures.

Academic Matters

6. Departure from Academic Integrity

- (a) Faculty boards or their delegated bodies have jurisdiction to deal with issues of academic integrity concerns and to impose sanctions when they find a departure from academic integrity has occurred. The sanctioning authority of faculty boards or their delegated bodies does not include the authority to impose a Requirement to Withdraw where a departure from academic integrity is found to have occurred; however faculty boards or their delegated bodies may issue a decision recommending that a student be required to withdraw from the University or that a degree conferred by the University be rescinded. Prior to doing so, a faculty board or its delegated body must consult with the Senate Committee on Academic Procedures (SCAP) to ensure that the sanctions of a Requirement to Withdraw and that a degree conferred by the University be rescinded are imposed consistently across the University.
- (b) If a student appeals a decision of a faculty board or its delegated body in which a Requirement to Withdraw or the rescission of a degree conferred by the University is recommended for a departure from academic integrity, USAB has the authority to approve the original recommendation and to impose a Requirement to Withdraw or to order the rescission of a degree conferred by the University, as the case may be.
- (c) If a student does not appeal a decision of a faculty board or its delegated body in a case involving departure from academic integrity, the sanction imposed by that decision (other than a recommendation that the student be required to withdraw from the University or a recommendation that a degree conferred by the University be rescinded) shall take effect immediately upon the expiration of the appeal period.
- (d) If a student does not appeal a decision of a faculty board or its delegated body in a case involving a departure from academic integrity in which the recommended sanction is that a student be required to withdraw from the University or that a degree conferred by the University be rescinded, that sanction shall take effect only after it has been approved by SCAP in accordance with subsections (e) and (f).

- (e) If SCAP receives for its review and approval a decision of a faculty board or its delegated body pursuant to subsection (d), the review shall ordinarily be carried out on the basis of documents filed with SCAP by the decision-maker. These documents shall include the following:
- (i) a copy of the decision, including a recommendation as to the length of the withdrawal period made in consultation with SCAP; or
 - (ii) a copy of the decision, including a recommendation that a degree conferred by the University be rescinded made in consultation with SCAP;
 - (iii) a written statement of the decision-maker indicating (a) when and how the decision was communicated to the student; (b) the date on which the appeal period expired; (c) reference to the applicable policy or authority that determines the appeal period; and, (d) whether an appeal was filed with the Ombudsman's Office by the student; and
 - (iv) a summary of the procedure followed by the decision-maker, with specific reference to oral or documentary evidence considered, leading up to the decision.
- (f) In reviewing a recommendation that a student be required to withdraw from the University or a recommendation that a degree conferred by the University be rescinded, SCAP shall satisfy itself that appropriate procedures have been followed and that the recommended withdrawal period is reasonable and in accordance with University standards. If SCAP is so satisfied, it shall approve the recommendation and immediately notify the Secretary of the Senate (who will communicate the decision to the student, the Office of the Registrar, and other internal offices as appropriate). The sanction shall take effect immediately. If SCAP is not satisfied that appropriate procedures have been followed or considers that the sanction is not reasonable or not in accordance with University standards, it shall make a report to the faculty board or its delegate and require reconsideration of the case in accordance with its report.
- (g) SCAP shall report annually to Senate (in such a way that does not identify individual students or faculty members) on the cases it has reviewed involving a departure from academic integrity.

7. Academic Standing

Faculty boards or their delegated bodies continue to have jurisdiction to deal with issues of academic standing. Subject to a student's right of appeal, if a student is not meeting the requirements of the program, a faculty board has the authority to issue a Requirement to Withdraw to the student.

The Appeal Process

8. Written Rulings & Information about Appeals

Any decision about student non-academic misconduct, the exercise of emergency powers, a departure from academic integrity, or academic standing shall be communicated in writing to the student. The decision shall also advise that the student has a right to appeal, and it shall

state the person or body to whom the appeal must be made and the deadline for appealing. It shall also refer to the Ombudsman's Office as a resource for information and advice.

9. Internal Appeals

Faculties, schools, residences, Department of Athletics & Recreation, and Authorized Agent(s) at Queen's shall have clearly defined levels of internal appeals and clear policies that set out the person or body to whom appeals are brought at each level and deadlines for making appeals to each level. The policies should also include guidelines for processing internal appeals from the filing of the appeal to the rendering of the decision. The guidelines must be consistent with the objective that appeals be determined as expeditiously as possible.

SYSTEM FOR HANDLING APPEALS WITHIN THE UNIVERSITY

10. The Office of the University Ombudsman (Ombudsman's Office)

Students who have received an academic or non-academic misconduct decision, or who are alleged to have committed an academic or non-academic offence, may contact the Ombudsman's Office to discuss the options available to them. Following an initial consultation, the Ombudsman's Office may do one or more of the following:

- (i) attempt to facilitate the informal resolution of the dispute;
- (ii) direct the student to the Human Rights and Equity Office or such other office on campus best able to offer advice and assistance with the matter;
- (iii) advise as to the complaint or appeal policies and procedures governing the matter;
- (iv) direct the student to a University Dispute Resolution Advisor;

11. University Dispute Resolution Advisors (Dispute Resolution Advisors)

- (a) There shall be at least three University Dispute Resolution Advisors (Dispute Resolution Advisors) appointed by Senate for two-year renewable terms, from the ranks of faculty. If necessary, Dispute Resolution Advisors should have a reduction in administrative or other service responsibilities in their school or faculty and, if experience proves that the Dispute Resolution Advisors are overburdened, additional Advisors should be appointed.
- (b) The function of Dispute Resolution Advisors shall be to provide information and advice to students who are facing adverse academic decisions or other difficulties related to their academic program at Queen's. Dispute Resolution Advisors are invaluable resources for providing students with information and advice about Queen's policies and procedures. Advisors promote the informal resolution of academic and non-academic misconduct related concerns by helping students to identify and evaluate options for resolution.
- (c) When requested by any interested party, a Dispute Resolution Advisor may, as of right, be present at any meeting between the student and any decision-maker. The right to have the Dispute Resolution Advisor present shall be in addition to the right of the student to be accompanied by a person of his or her choice at any stage of the proceeding and to have legal representation.

- (d) Dispute Resolution Advisors shall be trained in the area of dispute resolution in order to assist a student in seeking an informal resolution to a matter.

12. Right to Representation and Assistance

- (a) Students are ordinarily expected to deal with their professors, University administrators and their fellow students on their own. However, when facing a serious disciplinary sanction or when making an appeal to an academic decision making body, such as Academic Standing/Progress, an Academic Appeals Committee, or USAB, a student has the right to the assistance of a Dispute Resolution Advisor or any other person, including a legal representative. Students may appear on their own if they wish, but in serious cases they are encouraged to have representation or assistance.
- (b) The Rector, who is elected by all students, may also be a useful resource and potential advisor for students to consult.
- (c) Students who seek legal advice or representation may contact a lawyer or other legal advisor of their choosing. They may also contact Queen's Legal Aid, which provides advice, representation or referral without charge to students.
- (d) Whether or not a student has representation, a decision-maker or the members of a body that is holding a hearing may directly question the student. While no student can be compelled to answer questions, the failure to answer questions may lead to an adverse inference.

13. Jurisdiction of University Student Appeal Board (USAB)

- (a) There shall be a University Student Appeal Board (USAB) with jurisdiction to hear appeals by students from the following decision-making bodies:
 - (i) a Student Conduct Panel or an Authorized Agent of the University, as those terms are defined in the Student Code of Conduct;
 - (ii) faculty boards, or the final academic decision-making body of faculties or schools that have delegated final responsibility to a committee;
 - (iii) Queen's University residences administration and tribunals;
 - (iv) The Department of Athletics & Recreation;
 - (v) the Vice-Principal with responsibility for matters of safety and security to the University or his or her delegate regarding the issuing of a Notice of Prohibition or exercise of other emergency power.
- (b) USAB has jurisdiction to hear appeals with respect to any of the following matters:
 - (i) decisions concerning academic standing, exigent circumstances meriting special consideration, or a Requirement to Withdraw;
 - (ii) a departure from academic integrity;
 - (iii) non-academic misconduct decisions, pursuant to the authority granted by the *Appeals* section of the Student Code of Conduct;

- (iv) employment-related issues between a teaching assistant (who is not otherwise a member of a bargaining unit that is represented by a certified bargaining agent) and his/her course supervisor resulting in a decision by the Head of the unit;
 - (v) notices of prohibition or exercise of other emergency powers by University administrators.
- (c) The Provost and Vice-Principal (Academic) (“Provost”) may, in his or her sole discretion, refer any case involving a departure from academic integrity to the USAB for hearing and disposition, as long as the matter has not been heard by another body. The USAB will have full jurisdiction to impose any sanction that could have been made by a body with original jurisdiction over the matter, including requiring the student to withdraw. The Provost (or his or her designate) will be present at the case against the student and determine what sanction to seek to have imposed by the USAB

USAB shall have no jurisdiction to consider the academic substance of decisions and assessments.

Commentary:

Normally it is a student who will appeal to USAB. It should also be noted that, because of the limited grounds for appeal in section 16, an appeal to USAB under subsection 13(a) is not a rehearing of the case as presented to the decision-maker whose decision is under appeal.

Subsection 13(c) also allows for the Provost or various bodies within the University to refer cases involving one or more students to USAB for a hearing so that a decision can be made, or so that a report can be made to an appropriate person or body. The provision is intended to clarify that the Provost will ensure serious cases are dealt with expeditiously by an independent body chaired by a legally trained person. In the event of such a referral, the Chair of USAB shall determine the procedure that is to be followed, consistent with the principles of procedural fairness and the terms of the referral from the Provost. Such referral power might, for example, be used if there is a conflict of interest preventing a body from dealing fairly with a case, or a case arises concerning a matter that is not otherwise dealt with by Senate policies.

Recognizing that groups exist and are governed as autonomous and distinct bodies under the jurisdiction of the AMS, SGPS, Residences and Athletics and Recreation, USAB shall exercise caution when hearing appeals which have implications for an area which is the sole jurisdiction of the original disciplinary body or ratifying body. These areas include but are not limited to decisions of group non-academic misconduct regarding status of ratification or affiliation, insurance, finances and student fees, the violation of contracts between the group and the ratifying body, and allocation or use of space, recognizing that decisions in such areas may affect the operations of an autonomous (and potentially separately incorporated) organization over which USAB has no jurisdiction or decision making power.

14. Powers of the University Student Appeal Board (USAB)

- (a) USAB may do one of the following:
 - (i) remit a matter for rehearing by the original decision-maker or by another body with directions or recommendations; USAB may retain jurisdiction over the case pending the outcome of any rehearing; or
 - (ii) modify the original decision; or,
 - (iii) make any decision that the original decision-maker could have made;

The power of USAB described in clause ii and (iii) above shall be exercised judiciously and with restraint, having regard to the interests or safety of other students or members of

the public. They should normally only be exercised if the rights or interests of a student may be prejudiced if the matter were remitted back to the original decision maker for a rehearing, or it would be impractical to remit the matter back for a rehearing. The parties should be prepared to make submissions to USAB at the hearing specifically on whether USAB should exercise its power under clause (a) ii or (a) iii.

- (b) In addition to any specific disposition, USAB may issue a report to the Senate or to any persons or bodies within the University, or may determine that a report should be made public. USAB may also request that the Secretary of Senate refer to Senate any matter of policy or principle arising from a proceeding.

15. No Costs Reimbursement

Neither USAB nor any other decision-making person or body in the University has the power to direct that a student receive compensation for any costs or expenses incurred in the course of any University-based proceeding; Notwithstanding this, USAB may order that a student receive reimbursement for loss or denial of bursary, scholarship, or similar funds because of a decision that was reversed on appeal and may order the reimbursement of any appeal fee paid by the student if the decision is reversed on appeal.

16. Grounds for Appeal

USAB does not have the same discretionary jurisdiction as the original decision-maker. USAB is intended to ensure that fair procedures have been followed and that there has not been a clear error in the exercise of discretion. Accordingly, (except for a referral under subsection 13(c)) the jurisdiction of USAB is limited to cases where a student is able to establish that there has been:

- (a) a failure to follow the rules or regulations by the relevant decision-making body;
- (b) a breach of procedural fairness;
- (c) a violation of University policies;
- (d) a decision made that is not found to be reasonable.

Commentary:

USAB is intended to play an important role in the University, but this role is narrower than that of the original decision-maker. Except for referrals under subsection 13(c), an appeal to USAB is not a hearing *de novo*. It is intended to ensure that students are treated fairly, but at the same time its limited mandate recognizes that primary responsibility for making decisions about individual students rests with those who are closest to the students, who can fairly compare the individual students to other students in similar positions, and who have knowledge of the context in which the decision is made.

It is recognized that a decision-making body has the discretion to select among a number of reasonable alternatives. A decision that is fairly made shall only be reversed by USAB if it is satisfied that it was not a *reasonable* decision. 'Reasonable' in this context means a decision that is grounded in logic. In other words, a reasonable decision is one that is supported by logical inferences from accepted premises and facts. If there is more than one conclusion that may be reasonably drawn from the same premises and facts, the choice of one conclusion over another does not make the decision unreasonable. USAB shall not reverse a decision solely on the basis that it would not have made the same decision itself if it were exercising discretion. There is a considerable body of Canadian jurisprudence that helps define what constitutes review on the ground that a decision is not "reasonable."

The courts in Canada exercise a power of “judicial review” and may overturn the decision of a University tribunal or decision-maker if there was either a breach of procedural fairness or a decision was made that is considered by the court to be “patently unreasonable.” The jurisdiction given to USAB by this document is deliberately somewhat broader than that of the courts. This broader jurisdiction is intended to ensure that students receive treatment that is fair and in accordance with the law.

Requiring that decisions are to be made in accordance with principles of procedural fairness is a key principle of administrative law (the area of law that governs the process that non-court based agencies and decision-makers are to follow). There is a large body of jurisprudence and scholarship that helps to define and explain procedural fairness. A significant amount of the Canadian jurisprudence involves cases in which faculty or students have sought judicial review of decisions made by university bodies.

Decisions must be made by a fair process. The nature and context of the decision being made will be very important in determining what is a “fair process.” So, a decision made to require a student to withdraw from a degree program will require more procedural safeguards, such as the right to make a personal appearance before the decision-maker, than will a decision to deny a student the right to retake an examination on one course. While fair procedures must be used for making decisions, mere technical irregularities that have not affected the basic fairness of the process should not result in interference with an original decision.

If decision-makers are unsure of what is required by the principles of procedural fairness or University policies, they may seek the advice of the Ombudsman’s Office or the University’s lawyer.

17. Composition of the University Student Appeal Board (USAB)

- (a) USAB shall normally consist of the three members:
 - (i) the Chair (or an Alternate Chair);
 - (ii) one student senator, except that students in the Faculty of Law and the AMS or SGPS presidents or their delegates shall not be empanelled;
 - (iii) one faculty or staff senator, excluding any senators from the Faculty of Law and any Associate Dean, Dean, Vice Principal, and the Principal.
- (b) The Chair of USAB, may, if a case is considered one that raises issues of principle that might have a significant effect on the University community, decide that the case should be resolved by a five-member panel. In the event of a five-member panel, the composition will be: the Chair; two student representatives drawn from the pool described in clause (a) ii; and two senators, at least one of whom is faculty, drawn from the pool described in clause (a) iii.
- (c) Only faculty and student senators may hear an appeal from a decision under clause 13(b) i or clause 13(b) ii.
- (d) The members of each Board, excluding the Chair, shall be empanelled anew, and shall be appointed by the Ombudsman’s Office, having regard to:
 - (i) the availability of individuals to serve on USAB;
 - (ii) the need to avoid the appearance of bias or conflict of interest; and
 - (iii) the desirability of sharing the responsibility to serve on USAB among senators.

18. Chair and Alternate Chairs of the University Student Appeal Board (USAB)

- (a) The Chair of USAB shall normally be a member of the Faculty of Law (and in any case a person with a legal education), nominated by the Secretary of Senate and approved by Senate to serve for a two-year term. The Chair may be renewed.
- (b) In the event that the case-load of USAB requires, or in the event that the Chair is unavailable, the Secretary of the Senate may appoint an Alternate Chair to preside over one or more cases. The Alternate Chair may be a member of the Faculty of Law, a former law professor, or another person who has a legal education.
- (c) For a proceeding involving a law student, the Secretary of Senate shall appoint a member of the University community, a former law professor or some other person to serve as an Alternate Chair, provided that person has a legal education.
- (d) An Alternate Chair shall have all of the powers of the Chair of USAB for the purposes of the Rules of USAB.

19. Functions of the Senate

- (a) USAB derives its authority from the Senate. USAB may make recommendations to Senate regarding matters of policy arising from a proceeding decided by USAB.
- (b) The Senate shall continue to have authority to change any rules relating to academic discipline, academic standing or appeals, but shall not do so retroactively. Any such change shall not apply to proceedings commenced prior to the change.

THE RULES OF PROCEDURE FOR THE UNIVERSITY STUDENT APPEAL BOARD

20. Starting an Appeal - Time Limits

A student, after exhausting all other remedies and appeals within the University may, within two weeks after the last decision complained against, appeal to USAB

21. Starting an Appeal – Procedure

- (a) An appeal to USAB is commenced by filing a Notice of Appeal (*Form 26(a)*) with supporting documentation with the Secretary of USAB, setting out information about the appellant and the decision appealed from, the underlying facts, the grounds for the appeal, the specific remedy sought, and which powers USAB should exercise pursuant to subsection 14(a). The Notice of Appeal shall include all supporting documents.
- (b) The respondent in a case before USAB is normally the person who had initial responsibility for making the decision or commencing the proceeding that concerns the student. For example, this would be the AMS Prosecutor if a decision of the AMS Judicial Committee is under appeal, or it might be an Associate Dean if the decision of a faculty board is under appeal. Normally a deliberative body whose decision is under appeal is not the respondent, though members of that body may be called as witnesses. In the event of uncertainty as to who is the respondent, the Secretary of USAB may serve more than one person and require

those notified to select one person to serve as respondent and have responsibility for the case before USAB.

- (c) The respondent shall be provided with a copy of the Notice of Appeal by the Secretary of USAB and shall have two weeks after the date of receipt to file a Response (*Form 26(c)*). Copies of all relevant documentation in the possession or control of the respondent shall accompany the Response. Each respondent shall file a separate Response (*Form 26(c)*), although a respondent may rely upon the schedules and attachments that have already been filed by another respondent.
- (d) The Response shall include a list of witnesses that the respondent plans to have attend the hearing.
- (e) Upon receipt of the Notice of Appeal, the Secretary of USAB shall also send copies of the Notice of Appeal with accompanying schedules to the Chair of USAB, and shall empanel the Board. The Secretary of USAB shall forward copies of the Response with accompanying schedules to the Chair of USAB when they are filed.

22. Failure to Adhere to Time Limits

- (a) Unless the time limits for pursuing an appeal are adhered to by the appellant, the appellant shall be precluded from pursuing the matter further.
- (b) If the respondent fails to file documents according to these rules, USAB may convene a hearing without receiving such documents.
- (c) The Chair of USAB may extend or abridge any time limit established by these rules if, upon a written application by the requesting party, a satisfactory reason is provided for the delay and there is no prejudice to the other party. Normally time limits will be extended during exam or holiday periods.

23. Decision Not to Advance the Proceeding

- (a) Subject to subsection (b), the Chair or the Ombudsman's Office may decide not to advance the proceeding if:
 - (i) the Notice of Appeal is substantially incomplete, defective or inaccurate, or the documents provided are substantially incomplete;
 - (ii) the documents are received after the deadline for commencing the proceeding has passed and a request to the Chair for an extension of time has not been filed;
 - (iii) the student commencing the proceeding has not complied with subsection 27(c); or
 - (iv) there is some other substantial technical defect in the proceeding as filed.
- (b) Subject to subsections (c) and (d), the Chair or the Ombudsman's Office shall give the party who filed the documents relating to a proceeding notice of its decision not to advance the proceeding under subsection (a) and shall set out in the notice the reasons for the decision and the requirements for re-advancing the proceeding

- (c) Only one notice under subsection (b) shall be given. A party who receives a notice from the Chair or the Ombudsman's Office under subsection (b) must rectify the defect or deficiency within two weeks after the date of the notice.
- (d) If the Chair of USAB decides that the Notice of Appeal or documents filed are defective or deficient such that the identity of the other parties and/or the nature or grounds of the appeal cannot reasonably be discerned, the Chair may require that the deficiency be rectified within the time prescribed by section 20.

24. Disclosure

Each party is entitled to receive every document that USAB receives from the other party in the proceeding. The Chair of USAB may, at any stage of the proceeding, make a direction for:

- (a) the exchange of documents;
- (b) the exchange of lists of witnesses each party proposes to call;
- (c) the exchange of witness statements;
- (d) the provision of particulars; and
- (e) any other form of disclosure.

25. Convening the University Student Appeal Board (USAB)

The Chair shall convene USAB within three weeks after the filing of the Notice of Appeal or as soon thereafter as is possible to examine the documents and to determine whether any additional information may be required. If USAB requires additional information, it may request that the parties to the hearing supplement their original written statements or provide other documents.

26. Notice of Hearing

The Secretary of USAB, on behalf of USAB, shall give the parties to a proceeding reasonable notice of the hearing. A Notice of Hearing shall include,

- (a) a statement of the time, place and purpose of the hearing; and
- (b) a statement that if the party notified does not attend at the hearing, USAB may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding.

27. Service of Documents

- (a) Documents referred to in this policy may be filed personally or by mail, fax, or email.
- (b) A student shall provide to the Secretary of USAB the following information:
 - (i) a full residential and mailing address;
 - (ii) an email address; and
 - (iii) a telephone number at which the student can normally be reached (cell and/or home).

- (c) The student shall ensure that the above information provided is current and accurate at all times until the appeal is finally disposed of. The student shall immediately notify the Secretary of USAB in writing of any change in this information.
- (d) If a document is sent to the student by regular mail, it shall be sent to the latest mailing address provided by the student and shall be deemed to be received by the student on the fifth day after it was mailed.
- (e) If a document is sent by fax or email, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case it shall be deemed to be received on the next day that is not a holiday.
- (f) If a party that acts in good faith does not, through absence, accident, illness, or other cause beyond the party's control, receive a document until a later date than the deemed day of receipt, subsection (d) or (e), as the case may be, does not apply.

28. Alternative Dispute Resolution

- (a) The Chair of USAB may at any stage of the proceedings before a decision is rendered, direct the parties to a proceeding to participate in an alternative dispute resolution mechanism for the purposes of resolving the proceeding or an issue arising in the proceeding if:
 - (i) the Chair has determined that alternative dispute resolution is appropriate for a case; and
 - (ii) all parties consent to participating in the alternative dispute resolution mechanism.
- (b) Where parties to a dispute participate in an alternative dispute resolution process, time-lines for resolving the dispute must be established and agreed upon by both parties or be determined by the Chair. Normally, the period for alternative dispute resolution will not exceed four weeks. If at the conclusion of this period the dispute remains unresolved, either party may request that the matter proceed to a hearing before USAB.
- (c) All discussions during an alternative dispute resolution process are Without Prejudice. As such, no person called upon as a mediator or otherwise appointed to facilitate the resolution of a matter under this section by means of alternative dispute resolution mechanism shall be permitted to give testimony or produce documents in a proceeding before USAB or in a civil proceeding with respect to matters that have come before him or her in the course of carrying out such duties.

29. Dismissal of Appeal without Hearing

- (a) USAB may, on its own motion, dismiss a case after a review of the documents filed and without hearing from the parties if:
 - (i) the Chair determines that USAB does not have jurisdiction;
 - (ii) USAB meets in camera and determines that the appeal is clearly without merit or commenced in bad faith; or

- (b) within two weeks after the date of a notice given pursuant to subsection 22(b) the party commencing a proceeding has not rectified the defect or deficiency described therein.
- (c) USAB shall notify the parties in writing of its intention to dismiss the appeal without hearing from the parties, and it shall invite and consider written submissions of the parties on USAB's jurisdiction to hear the matter, the merit of the appeal, or the completeness of the record, as the case may be.
- (d) If a decision is made to dismiss an appeal without hearing from the parties, the Chair shall inform the parties in writing of its decision.

30. Effective Date of Sanction, Penalty or Requirement to Withdraw

- (a) Ordinarily, no sanction, penalty or requirement to withdraw shall be put into effect until the student affected has either exhausted all channels of appeal or the time for filing an appeal has expired and no appeal has been filed. For the purpose of this provision, the University will normally consider an adverse academic decision to be a sanction.
- (b) Notwithstanding subsection (a), where an academic unit determines that the interests of third parties may be prejudiced by the continued enrolment of a student in a course or program, the unit may decide that, pending an appeal from an adverse academic decision, the student should not be permitted to continue in the course or program, or may be precluded from progressing to the next academic stage. A student who is subject to an immediate sanction under this subsection may request that the Chair of the appellate body with jurisdiction over the matter expedite the hearing of the appeal. This request may result in a direction abridging the time for filing of documents, or other interim or preliminary directions made pursuant to section 31.
- (c) If the Associate Vice-Principal and Dean of Student Affairs or delegate determines that the interests of other students, staff or the proper administration of the residences may be significantly and adversely affected by the student continuing to reside in residence, the Associate Vice-Principal and Dean of Student Affairs or delegate may decide to remove a student from residence. Notwithstanding subsection (a), such decision shall take effect at a date and time specified in the decision but this cannot be sooner than 4:30 p.m. on the first business day after the decision made under this subsection is communicated to the student. The student may appeal a decision made under this subsection to the Chair of USAB by filing a completed Notice of Appeal (Form 26(a)) with the Secretary of USAB before the date and time specified in the decision. The Chair of USAB will hear and decide the appeal of the decision made under this subsection within two business days after the date the appeal was filed. If the student appeals under this subsection, the sanction shall not take effect pending the disposition of the appeal by the Chair of USAB, whose decision is final.

Commentary

Some academic experiences involve student interaction with third parties, or may be subject to laws and regulations such as those governing professions such as the *Regulated Health Professions Act* and the *Medicine Act*. For example, and without limiting other possible circumstances, there are placement requirements in Education and mandated clinical placements in Medicine, Nursing and Rehabilitative Therapy, where the interests of third parties would justify

immediate suspension of a student from a course or portion of a program. In programs involving intensive group work, the interests of other students might justify such a suspension.

In addition, the unique circumstances of life in student residences may give rise to the need for the immediate effect of a sanction, particularly when the peaceful coexistence of certain students is unlikely. The immediate effect of a sanction may also be warranted as the academic year draws to a close when there is reason to believe that appeal rights may be exercised for the purpose of avoiding the sanction altogether by 'running out the clock'. Such unsanctioned breaches of the rules potentially creates a disruptive environment for other residents at a critical time of the year. It also undermines confidence in the non-academic misconduct system in the residences.

31. Immediate Effect of Orders to Protect Safety

- (a) The University administration retains the power to exercise emergency powers when necessary, including the issuance of a Notice of Prohibition to bar a student from entering some or all property owned, operated or otherwise controlled by Queen's University ("Queen's Property") pending the outcome of a proceeding, if satisfied that the interests or safety of students or other members of the University community would be endangered by the student's continued presence on or at Queen's Property or specific part(s) thereof or by the student continuing in a course or program.
- (b) The exercise of emergency powers, including the issuance of a Notice of Prohibition, takes effect immediately and is not suspended pending an appeal.
- (c) A student who is subject to the exercise of emergency powers under this section may request that the Chair of USAB expedite the hearing of the appeal. This request may require an appeal directly to USAB without an intermediate level of appeal, and may result in a direction abridging the time for filing of documents, or other interim or preliminary direction made pursuant to section 32.

32. Interim & Preliminary Directions

- (a) The Chair has the jurisdiction to make preliminary or interim directions about a case, including the power to make directions that are consistent with governing academic regulations about a student's course of studies pending a hearing. The Chair may also make procedural rulings concerning the conduct of the hearing, disclosure of documents and attendance of witnesses.
- (b) Interim directions will only be made after giving both parties a reasonable opportunity to make submissions, usually in writing. There may also be tele-conferences or other forms of hearing to resolve interim issues.

33. Attendance of Witnesses

- (a) The parties shall provide the Chair and the opposing party with a list of witnesses they plan to call at least five days before the hearing.
- (b) Witnesses are not expected to be sworn or affirmed.
- (c) USAB has no power to compel any person to attend a hearing.
- (d) If a party believes that a member of faculty, the Queen's administration, or the student body has relevant evidence, the party may, at least five days before the hearing, submit a written requisition to the Chair asking that (s)he formally request that the person attend as

a witness at the hearing. The written requisition shall include the following information about the requested witness:

- (i) full name;
 - (ii) status (i.e. faculty, staff, student);
 - (iii) current telephone number;
 - (iv) current email address;
 - (v) summary of the evidence the requested witness is expected to give; and
 - (vi) brief statement as to the relevance of the evidence to the proceeding.
- (e) If the Chair concludes that the requested witness is likely to have relevant evidence, the Chair may request that person to attend.

34. Hearings To Be Private

- (a) A hearing of USAB deals with issues related to individual students and ordinarily are to be conducted in private. If satisfied that confidentiality concerns can be adequately addressed, the Chair may direct that the proceedings are to be open to members of the University community and others.
- (b) The Chair may direct who may or may not be present at any stage of a hearing.

35. Consolidation of Proceedings

If satisfied that confidentiality concerns can be adequately addressed, the Chair may direct that appeals to USAB involving two or more cases be consolidated into a single hearing.

36. What is Admissible in Evidence at a Hearing

- (a) Whether or not such evidence is admissible as evidence in a court of law, USAB may admit as evidence at a hearing any oral testimony or any document or other object relevant to the subject matter of the appeal and, if it considers it to be credible and trustworthy, USAB shall determine its weight in relation to the other evidence admitted.
- (b) Where USAB is satisfied as to the authenticity of a copy of a document or other thing, it may be admitted as evidence at a hearing.
- (c) The Chair of USAB may exclude evidence on the ground that it is unduly repetitious, irrelevant, or otherwise inadmissible, for example because of confidentiality or privacy concerns.

37. Examination of Witnesses

- (a) A party to a proceeding or their representative may at the hearing,
 - (i) call and examine witnesses and present evidence and submissions; and
 - (ii) conduct cross-examinations of witnesses reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding.

- (b) The Chair may reasonably limit examination or cross-examination of a witness when satisfied that the examination has been sufficient to disclose fully and fairly all matters relevant to the appeal, or that the questioning is irrelevant or abusive.

38. Adjournments

- (a) If during the course of any hearing, USAB decides that additional information is required in order to resolve the matter, the Chair may adjourn the hearing to permit the parties to bring forward such additional information or facts or to permit USAB to obtain such additional information.
- (b) The Chair of USAB may decide to adjourn the hearing at the request of a party when the Chair is satisfied that an injustice would occur if the hearing were to proceed.

39. Incapacity of USAB Member

If a member of USAB who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining members may complete the hearing and give a decision. In this event, the application or appeal shall be dismissed unless, in the case of a three-member panel, the decision is unanimous, or in the case of a five-member panel the decision is of a majority.

40. Record of Proceeding

- (a) The Secretary of USAB shall keep a record of all proceedings before USAB, which shall include:
 - (i) any written documents filed by the parties;
 - (ii) any interim orders made by USAB;
 - (iii) the decision of USAB and the reasons therefore.
- (b) The Secretary of USAB will make a tape recording of the proceedings for the purposes of (i) aiding USAB or the parties at the hearing, (ii) aiding USAB in its deliberations, and (iii) facilitating judicial review. If directed by the Chair, a transcript of the hearing may be prepared. Ordinarily any tape that is made shall be erased or destroyed one year after the decision of USAB is rendered.
- (c) Unless the preparation of a transcript is directed by the Chair, any party to a proceeding may, within one year from the date of the decision, make a written requisition of the Secretary of USAB for a transcript of all or part of the proceeding. Under no circumstances can this time limitation be extended.
- (d) A party requisitioning a transcript pursuant to subsection (c) shall be liable for the cost of its preparation calculated at an hourly rate on a strict cost-recovery basis. The requisition must be accompanied by a deposit in the amount of \$250.00, payable to “Queen’s University”, to be credited toward the final preparation cost. The transcript will not be released until any cost of its preparation that exceeds the amount of the deposit has been remitted to the University.

41. Decision of the University Student Appeal Board (USAB)

- (a) If possible, USAB should render a unanimous decision. However, if the members of USAB are unable to agree upon a disposition, a majority may issue a decision on behalf of USAB, and the dissenting member is entitled to write a dissent.
- (b) USAB shall prepare written reasons for its decision. A copy shall be sent to the parties as soon as possible, normally within two weeks after the completion of a proceeding.
- (c) USAB may send a report to Senate or other relevant University constituencies about a proceeding, but such reports shall not identify the student unless the student so requests.

42. Supplementary Rules of Procedure & Directions

The Chair of USAB shall have the power to issue Supplementary Rules of Procedure. Rules formulated pursuant to this power shall not conflict with the established Rules of Procedure or with Senate regulations. These Supplementary Rules shall be posted on the University web site along with this Statement, and be included with any printed version of these Rules.

To the extent that a procedural issue is not dealt with in these Rules of Procedure or in any Supplementary Rules, the Chair of USAB shall have the power to give procedural directions for the conduct of individual cases.

APPENDICES

**APPENDIX “A” -
POLICIES RELATED TO ACADEMIC AND NON-ACADEMIC MISCONDUCT**

Non-Academic Misconduct

Queen’s University Student Code of Conduct (2016) and the Interim Procedures Under the Queen’s University Student Code of Conduct 2016: Approved by the Board of Trustees May 6, 2016

Related Policies:

- 1) There are several University policies, rules and procedures that normally act independently of one another. However, in circumstances where the alleged Code violation is reported to the NAM Intake Office, the sanctions in other relevant policies or procedures will be available to the decision-maker.
- 2) These policies, rules and procedures may include, but are not limited to the following:
 - a) Acceptable Use of Information Technology Policy
 - b) Code of Behaviour for Library Users
 - c) Core Tenant Handbook for University-Owned Rentals
 - d) Harassment/Discrimination Complaint Policy and Procedure
 - e) Queen’s University Weapons Policy
 - f) Policy on Sexual Violence Involving Queen’s University Students
 - g) Professional behaviour offences under professional programs
 - h) Information Security Policy Framework.
- 3) The University also has existing behavioural expectations for specific Student populations:
 - a) Athletics and Recreation’s Guidelines of Behaviour for Student-Athletes
 - b) Summary of Infractions for Student Athletes
 - c) Athletics and Recreation Discipline Policy
 - d) ResRules for Students living in Residences
- 4) Student governments have policies and bylaws that relate to their members:
 - a) The Constitution of the Alma Mater Society of Queen’s University
 - b) AMS Policy Manuals
 - c) SGPS Bylaws and Policies

- d) Constitution of the Residence Society
- e) Bylaws of the Residence Society
- f) Secondary Residence Society Policies

Academic Discipline

Senate Policy on Integrity in Research

Approved by Senate – January 2009

This policy outlines the expectations of members of the Queen's community with respect to the conduct of research and scholarly activities, defines misconduct in research or scholarly activities, and outlines procedures to be followed when it is suspected.

Faculty Jurisdiction With Respect to Student Appeals of Academic Decisions

Approved by Senate – March 2005

This policy establishes that the jurisdiction for matters of academic appeal should, in all instances, reside in the student's home faculty to minimize the possibility of confusion for students. Each student is expected to gain a working knowledge of the regulations governing the faculty in which he or she is registered.

Subject Matter Exclusive to Other University Policies

Harassment/Discrimination Complaint Policy and Procedure

Approved by Senate - March 30, 2000

Ratified by the Board of Trustees - May 6, 2000

This policy deals with behaviour and conduct that may be characterized as harassment and discrimination (on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, gender identification, sexual orientation, age, marital status, family status and disability). It sets out both a mechanism and a procedure for dealing with these matters.

Freedom of Information and Protection of Privacy Act (FIPPA) R.S.O. 1990 c. F.31.

As of June 2006, Ontario universities are included within the scope of FIPPA, which deals with access to information contained in a university's records. Protection of personal information collected by Queen's University will continue.

Related University Policies

Teaching Assistants at Queen's University

Revised by Senate – January 2009

The general purpose of this policy is to provide a common frame of reference with respect to the hiring and funding of Teaching Assistants (TAs) at Queen's University as well as the rights and responsibilities of TAs and the University. The guidelines and procedures articulated in the policy are intended to enhance the undergraduate learning and teaching environment.

APPENDIX “C” - TIME LINES AND REQUIREMENTS FOR USAB PROCEEDINGS

<i>who</i>	<i>when</i>	<i>what</i>
Appellant	Within 2 weeks after decision [s.20]	File Notice of Appeal [Form 26(a)]
Ombudsman’s Office	When Notice of Appeal filed [s.21(d)]	Empanel USAB
Chair of USAB	Any time after Notice of Appeal filed [s.28(a)]	Direct parties to participate in alternative dispute resolution
Chair of USAB	Within 3 weeks after Notice of Appeal filed [s.25]	Convene Board to examine documents and determine whether additional information required
Respondent	Within 2 weeks after receiving Notice of Appeal [s.21(c)]	File Response [Form 26(c)]
Appellant and Respondent	At least 5 days before hearing [s.33(a)]	Exchange witness lists and file them with USAB
Appellant or Respondent (optional)	At least 5 days before hearing [s.33(d)]	Submit a written requisition to the Chair of USAB to formally request that a witness attend
HEARING		
USAB	Within 2 weeks after hearing [s.41(b)]	Release written reasons for USAB’s decision in the proceeding
Appellant or Respondent (optional)	Within 90 days after date of decision [s.40(c)]	Submit a written requisition to the Ombudsman’s Office for transcript of proceedings
Ombudsman’s Office	90 days after date of decision [s.41(b)]	Erase or destroy tapes of a proceeding

APPENDIX “D” – FORMS

Form 26(a)

Notice of Appeal

University Student Appeals Board

Appellant:	<i>last name</i>	<i>first name</i>	<i>student number</i>
	1	2	3

Respondent:	<i>last name</i>	<i>first name</i>
	4	5

Decision Under Appeal:	<i>name of the decision-maker or the chair of decision-making body</i>	<i>name of decision-maker's board or office</i>	<i>date of decision</i>
	6	7	8

Appellant's Mailing Address:

9

Appellant's Residential Address (if different):

10

Appellant's Principal Phone N°:

11

Appellant's Alternate Phone N°:

12

Appellant's Email:

14

Appellant's Fax N°:

15

Indicate with a ✓ that the following REQUIRED schedules are attached:

Schedule “A” - Statement of the Grounds for Appeal, the Underlying Facts, and the Remedy Sought

16

Schedule “B” - List of Relevant Documents (copies of all documents must also be attached)

17

Schedule “C” - List of the Appellant's Potential Witnesses

18

Indicate which of the s.14 or s. 15 power(s) listed here the Appellant REQUESTS the Board to exercise in this appeal:

s.14(a)i

19

s.14(a)ii

20

s.14(a)iii

21

s.15

22

Date:

23

Signature:

24

University Student Appeals Board

Appellant:

Respondent:

Respondent's Department:

Respondent's Building and Room N°:

Respondent's Principal Phone N°:

Respondent's Alternate Phone N°:

Respondent's Email:

Respondent's Fax N°:

Indicate with a ✓ that the following REQUIRED schedules are attached:

Schedule "A" - Statement of the Underlying Facts, and the Remedy Sought

Schedule "B" - List of Relevant Documents (copies of all documents must also be attached)

Schedule "C" - List of the Respondent's Potential Witnesses

Indicate which of the s.14 or s. 15 power(s) listed here the Respondent OBJECTS to the Board exercising in this appeal:

s.14(a)i

s.14(a)iii

s.14(a)ii

s.15

Date:

Signature: