

# OFFICE of the UNIVERSITY Ombudsperson

## APPEALING A DECISION TO USAB

The University Student Appeal Board (USAB) is the final internal appeal process at Queen's University. USAB does not have the same discretion as the decision-maker whose decision is being appealed. Sections 42-46 of the [Queen's University Senate Student Academic Appeals Policy](#) (SAAP) outlines the **jurisdiction** and **grounds** that a student must meet for USAB to hear an appeal.

An appeal to USAB is different from the original appeal. The USAB appeal process is intended to ensure that fair procedures have been followed and that there has not been a clear error in the exercise of discretion. **Not being satisfied with the outcome you received from a previous decision-maker is not grounds for appeal to USAB.** This appeal is different from the original appeal(s) as the USAB appeal is not a re-telling of the case; that is, the proceeding before USAB shall not be a hearing de novo.

## JURISDICTION OF USAB

USAB has a **limited scope** in terms of what types of appeals can be heard. They only have jurisdiction to hear the following types of appeals by students from the final academic decision-making body within their Faculty or School:

1. A decision that impedes a student's **academic standing**. For clarity, USAB has the jurisdiction to review a decision if it results in the application of an academic regulation that impedes a student's academic standing in a program, but USAB does not have the jurisdiction to review the academic regulation itself.
2. A decision concerning departure from academic integrity.
3. Step-two decisions made by a Unit Head concerning an employment-related issue between an undergraduate teaching assistant and their course supervisor.

**Academic standing** means the standard used to determine or measure a student's eligibility to remain and/or progress in a program, as determined by the academic regulations of the student's Faculty, School or program.

The Provost and Vice-Principal (Academic) or their designate may, in their sole discretion, refer any decision involving a departure from academic integrity directly to a USAB proceeding in a few situations. Review [SAAP](#) in full for more details.

**Decisions of USAB** - In deciding an appeal, USAB has two options, they may either:

- 1 send the matter for reconsideration by the decision-maker whose decision has been appealed to USAB, with directions or recommendations
- 2 modify the original decision, including making any decision that the original decision-maker could have made, but only where sending the matter back in **option 1** would cause delay that prejudices the student's rights or if USAB has made a finding of bias in the decision-making process.

### New Evidence

If a student's appeal contains new evidence about something they claim affected their academic performance that, through no fault or omission of the student, was not known or was not available to the student at the time the prior decision was made, USAB shall have no jurisdiction to hear the appeal. Rather, USAB shall send the matter back to the previous decision-maker for reconsideration unless:

1. The delay of sending the matter back to the prior decision-maker would be unduly prejudicial to the student; or,
2. The student's new evidence clearly demonstrates bias in the prior proceeding that otherwise cannot be remedied.

Grounds for Appeal

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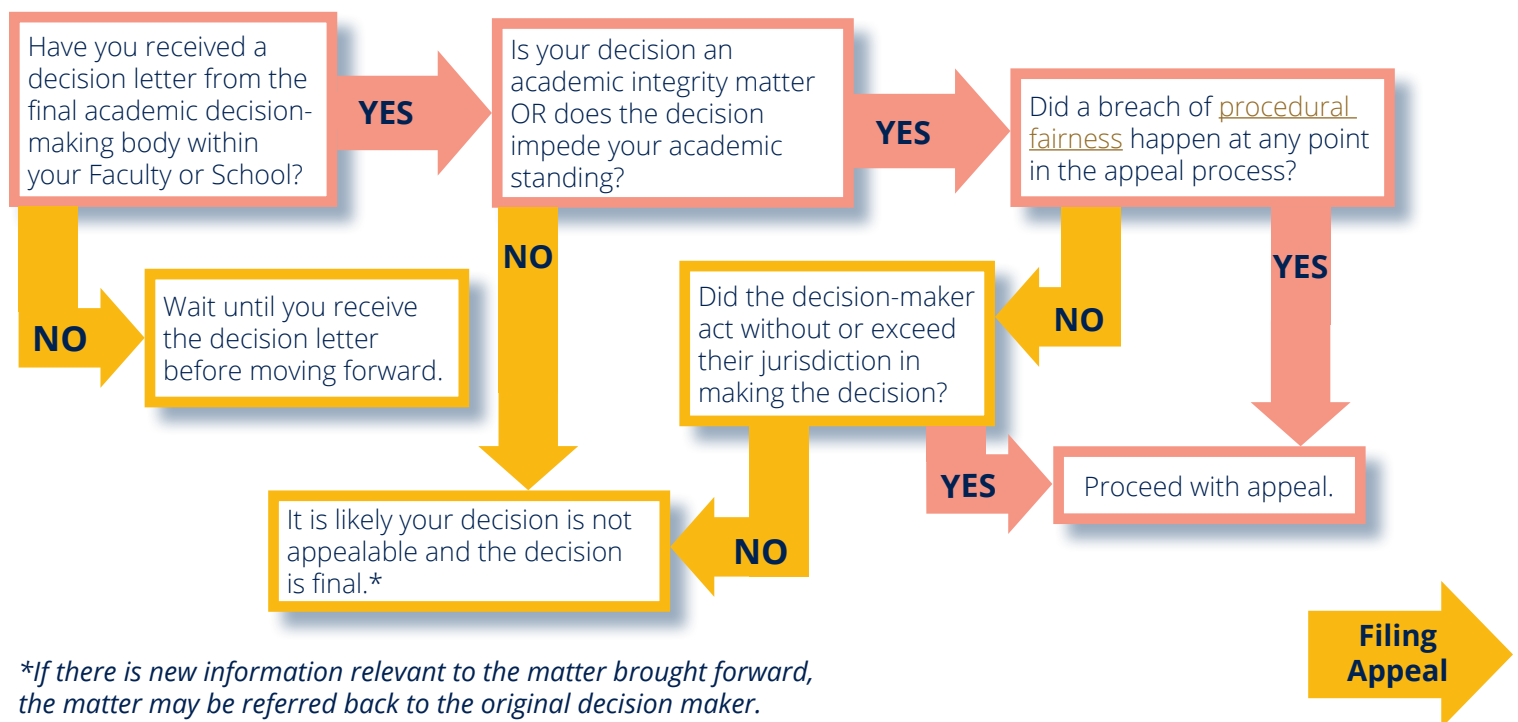
## GROUNDINGS FOR APPEAL TO USAB

Assuming the decision **falls within the jurisdiction** of the policy, the grounds for an appeal to USAB are also **limited** to cases in which a student is able to establish:

1. A breach of **procedural fairness**, which could include such things as failing to:
  - Permit a student to be heard by an unbiased decision-maker.
  - Follow applicable rules, regulations, or university policy in a way that adversely affected a student's right to a fair process.
  - Make a reasonable decision. A "reasonable" decision is one that is rational in that its findings are based on evidence, thought out and supported by facts and logical inferences from findings of fact. To be reasonable, the decision must contain adequate reasons for the conclusions. A decision should be upheld if it falls within a range of possible, acceptable outcomes, in which case USAB is not permitted to substitute its opinion for that of the decision-maker whose decision is under appeal.
2. The decision-maker whose decision is being appealed to USAB acted without, or exceeded its, jurisdiction.

## DECIDING TO APPEAL

Ensure you have read the above mentioned **SAAP** policy and understand the **limited jurisdiction and grounds** that your appeal must meet for USAB to hear it.



*\*If there is new information relevant to the matter brought forward, the matter may be referred back to the original decision maker.*

## FILING THE APPEAL TO USAB

If you are confident your appeal has jurisdiction to be heard by USAB **AND** does meet one of the grounds for appeal, you will need to file [Form 26\(a\) Notice of Appeal](#) to the Secretary of USAB in the Office of the University Secretariat and Legal Counsel at [USABSecretary@queensu.ca](mailto:USABSecretary@queensu.ca), within **two weeks** after the date of the Faculty's or School's last decision. The [Rules of Procedure for USAB](#) outlines the process that will take place during the appeal.

In addition to the completed Notice of Appeal form, you will also include:

- **Schedule "A"** - Copies of all decision letters
- **Schedule "B"** - A written appeal letter explaining the reasons for your appeal and the ground(s) for appeal
- **Schedule "C"** - Any additional supporting documents

## SCHEDULE "B" - THE APPEAL LETTER

This letter is not a re-telling of the case, but your opportunity to identify what was faulty in the process followed by the previous decision-maker(s).

### 1 Grounds for Appeal

This section should provide a clear and concise explanation that summarizes **what** the reason(s) for appeal are and also clearly identifies the ground(s) for your appeal.

Your appeal letter should begin by saying what you're appealing and provide a brief summary as to what the ground(s) are. Note that you will go into more detail when speaking about the underlying facts you have to support the ground(s).

For example, if you decide to appeal because you feel there was a breach of procedural fairness, you would say *"I am appealing the academic integrity finding and sanction that resulted in my grade of zero on the grounds of a breach of procedural fairness,"* and then briefly explain what was the breach of procedural fairness. (Ensure you review page 2 of this document to understand what a breach of procedural fairness could include.)

### 2 Underlying Facts

This section would detail the facts that support the ground(s) of appeal that have been identified. This can be thought of as the **"how"** of the appeal letter.

For example, if a breach of procedural fairness occurred due to a biased decision-maker, you would include the facts that support **how** the decision-maker was biased in making the decision.

### 3 Remedy Sought

This section would detail the remedy you are seeking for the appeal and can also be considered as the desired outcome. The desired outcome could involve the decision on the merits and/or the sanction(s) imposed. SAAP limits what USAB can do when deciding the appeal so this should be taken into consideration when considering the outcome being sought.

USAB may send the matter back to the original decision-maker for reconsideration (with directions or recommendations) or may modify the original decision, but only if a finding of bias has been found or if sending the matter back will cause a delay that prejudices the student's rights.