

Procedures

APPEALS TO THE BOARD OF GOVERNORS PROCEDURES

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Appeal Under Section 60(3) of the University
Act (2002)
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1.0 PURPOSE

These Procedures provide direction and guidance to the Board of Governors Appeals Committee and any party appealing to the Board under section 60(3) of the *University Act* or a UNBC policy.

2.0 PROCEDURES

2.1 Initiating an Appeal

2.1.1 A party who wishes to file an appeal must submit a written notice and statement of appeal to the Senior Governance Officer within 30 business days of the party being informed of the decision or outcome being appealed.

2.1.2 The notice and statement of appeal must contain the following information:

- i. a statement of the suspension or other type of decision being appealed;
- ii. a summary of the background to the appeal;
- iii. a statement identifying the grounds for appeal;
- iv. a statement of the relief or remedy sought; and
- v. a list of the key documents, and copies of the documents, that are relevant to the appeal and upon which the Appellant relies.

2.1.3 The Senior Governance Officer sends the Appellant's notice and statement of appeal to the Committee Chair and to the President, within five business days of its receipt.

2.2 Response to Appeal

2.2.1 The President may elect to file a Response to the appeal. The President's Response must be submitted to the Senior Governance Officer within 10 business days.

2.2.2 The Senior Governance Officer then sends the President's Response to the Appeals Committee Chair and the Appellant promptly, within five business days of receipt.

2.3 Reply to Response

2.3.1 The Appellant may submit a Reply to any matter raised in the President's Response which the Appellant has not already

addressed in the Appellant's notice and statement of appeal. The Reply, if any, must be submitted to the Senior Governance Officer within five business days of receipt of the President's Response.

2.3.2 The Senior Governance Officer sends the Appellant's Reply to the President and the Committee Chair promptly, within five business days of receipt.

2.4 Scheduling the Consideration of the Appeal

2.4.1 After the date for receiving the Reply has passed, the Senior Governance Officer schedules a date for the appeal to be considered, taking into account the availability of the Committee members.

2.4.2 Consideration of the appeal normally takes place within three months after the notice and statement of appeal were submitted to the Senior Governance Officer by the Appellant.

2.5 Appeal Record

2.5.1 After the date for receiving the Reply has passed, the Senior Governance Officer prepares an Appeal Record, which consists of the following:

- i. the Notice and Statement of Appeal;
- ii. the Response, if any; and
- iii. the Reply, if any.

2.5.2 The Senior Governance Officer must provide each party and each member of the Committee a copy of the Appeal Record at least 10 business days in advance of the date that the Committee will consider the appeal.

2.6 Appeal Hearing Procedures

2.6.1 A quorum of the Committee is three members.

2.6.2 Unless determined otherwise by the Committee Chair, all appeals proceed based on the written materials submitted by the parties, as contained in the Appeal Record.

2.6.3 Subject to the rulings of the Committee Chair, the Committee meets to deliberate and make a recommendation to the Board on the appeal.

- 2.6.4 Members of the Committee may participate in a meeting by means of teleconference or video conference in which all members at the meeting can speak to, and hear, all other members at the meeting.
- 2.6.5 Both the President and the Appellant, in that order, are invited to make oral submissions to the Committee based on the Formal Statement and the Response. The purpose of these submissions is to ensure that both the President and the Employee have a full opportunity to present their respective cases.
- 2.6.6 In making their decision about the appeal, Committee members receive and consider only that information and those submissions which are provided to them in conformity with this Guideline. However, should Committee members decide that they need to obtain further information to make a fair and fully informed decision about the appeal,
- i. the information required and the process for obtaining that information is reviewed with the Appellant and the President before any steps are taken to obtain the information; and
 - ii. the process used for obtaining such information must comply with the principles set out in the Policy.
- 2.6.7 Once submissions have been made by the President and the Appellant, Committee members may ask any questions they have of the President and the Appellant. The President and the Appellant, in that order, are then asked to make any supplementary submissions they may have as a result of the Committee members' questions. This ends the formal hearing.
- 2.6.8 The Committee meets to review the information provided and submissions made by the President and the Appellant, to conduct its deliberations, and to make its decision.
- 2.6.9 Although the President is a member of the Board *ex officio*, they neither participate in the Committee's deliberations, nor communicate with Committee or Board members about the appeal except by using the procedures established in this document.
- 2.6.10 The Appellant must communicate with Committee members about their appeal only by using the procedures established in this document.

2.6.11 All procedures related to the appeal of a suspension will take place in a *closed* meeting.

2.6.12 The Board, the President, and the Appellant may be represented during these procedures by counsel and must communicate such an intent to the Senior Governance Officer in advance of an appeal hearing. If the Appellant chooses to use counsel, they are solely responsible for their legal costs.

2.6.13 The Committee Chair has the unfettered discretion:

- i. to extend the time limits established by this document where, in their opinion, such an extension is required in order to ensure that the general principles set out above are satisfied;
- ii. to approve a means of delivery for both the Formal Statement and any communications from the Committee to the Appellant in circumstances where delivery by courier is not practical;
- iii. to provide directions concerning the disclosure of documents by the President or the Appellant if such disclosure is required to ensure that the general principles set out above are satisfied; and
- iv. to determine whether a guest at the proceedings may speak on behalf of the appellant during the proceedings. Such a decision must be made prior to the proceedings.

2.7 Committee Deliberations and Recommendation

2.7.1 All deliberations of the Committee are confidential. Members of the Committee must not discuss the substance of an appeal other than when the Committee is meeting to deliberate and making its recommendation to the Board.

2.7.2 Meetings of the Committee are in closed meetings.

2.7.3 Recommendations of the Committee to the Board are made in closed meetings.

2.7.4 In coming to its recommendation, the Committee must limit its considerations to the Appeal Record. The onus is on the Appellant to prove that the Appeal should be successful.

2.7.5 The Committee must arrive at its recommendation by majority vote of the members of the Committee present at the Appeal Hearing.

- 2.7.6 The Committee must provide its recommendation and the reasons for its recommendation in a written report signed by the Committee Chair. The Committee recommendations must be limited to the following:
- i. dismissing the appeal; or,
 - ii. allowing the appeal and referring the decision back to the President for review or reconsideration in accordance with the reasons of the Committee.
- 2.7.7 Committee Chair provides the Senior Governance Officer the written report, who provides it to the Board for final consideration.
- 2.7.8 After the Board decides the appeal, the Senior Governance Officer must provide the Committee's report to each of the parties, along with notice of the Board's decision of the appeal.