

Code of Student Grievance Procedures

Amended:
Senate

May 15, 2013

Minute IIB2

Full history appears at the end of this document.

1.0 General

- 1.1 The Senate Committee on Student Grievances (hereafter the Committee) shall consist of nine voting members, being four academic staff and four students (two graduate and two undergraduate), plus a Chair, none of whom need be members of Senate. A legal assessor who shall act as a non-voting member of the Committee shall be nominated by Senate. Staff members shall serve staggered three-year, renewable terms, and the student members shall serve one-year terms, renewable twice. As far as possible the members shall be drawn from different faculties. The Senate shall designate one member as Chair. The term of office for both staff and student members shall begin the first day of September. Committee members shall stay on past the end of their terms in order to complete a case where a hearing has begun or proceeded before then.
 - 1.1.1 In the event that a suitable committee from the membership of the Senate Committee on Student Grievances cannot be convened, the President shall designate membership of the Committee.
- 1.2 No meeting may proceed unless at least two voting members, at least one of whom shall be a student, and the Chair are present. Decisions of the Committee shall be by a simple majority of the voting members present.
- 1.3 No member of the Committee, voting or non-voting, shall act or shall previously have acted as an advisor for either party concerning any matter brought before the Committee. If a committee member has to be replaced for this or any other reason, an alternate from the same constituency (student or academic staff) shall be called to serve as his or her replacement by the Chair. If at any stage of the proceedings, the Chair perceives that he or she has a conflict of interest, an acting chair shall be appointed by the Committee from within its ranks and an alternate from the same constituency shall be brought in as a Committee member for that case.
- 1.4 All meetings and hearings of the Committee shall be closed unless the Committee directs otherwise and both parties agree. All documents submitted to the Committee shall be confidential.
- 1.5 In all proceedings under this Code, the student and the University are entitled to have an advisor present. Such advisor must be a member of the University community and must not be paid for these services.
- 1.6 The word “days” as used in this Code is inclusive of weekends, but not holidays.

2.0 Jurisdiction

- 2.1 Any student has a right to lodge a grievance resulting from an act or a failure to act by a member of the University occupying a position of authority vis-à-vis the student in a University-related matter.

- 2.2 Any student who believes that a right accorded to him or to her under the Charter of Students' Rights has been infringed by a member of the University may apply to the Committee for appropriate redress.
- 2.2.1 Should the Committee be of the opinion that the general application of a rule, procedure or practice, as defined in the Charter, is in violation of the obligations of the University defined in the Charter, it shall refer the observed violation to the Senate Advisory Council on the Charter of Students' Rights. Such reference shall state the reasons for the opinion.
- 2.2.2 The Senate Committee on Student Grievances may suspend temporarily the application of the rule, procedure or practice referred to in 2.2.1 in the case before it without awaiting a disposition from the Senate Advisory Council on the Charter of Students' Rights.

3.0 Preliminary Procedures

- 3.1 It is preferable for all parties that an aggrieved student resolves the grievance informally through departmental, faculty or University channels, through the Ombudsperson for Students or through the Dean of Students' Office. However, once the student has sought redress through established review or appeal procedures he or she may lodge a grievance under the Code of Student Grievance Procedures.
- 3.2 Any grievance shall be directed in writing to the Chair of the Committee. The submission must contain a clear statement of the grievance alleged, the procedures already followed, and the redress sought. As soon as possible after receiving a grievance, the Chair shall either request further clarification from the student in the form of a resubmission, or make the submission of the student available to the Committee and to the other parties involved, requesting a response from such parties within 15 calendar days. The Chair may extend this period in circumstances in which delay is unavoidable. Such response shall be distributed to the members of the Committee and to the student.
- 3.3 Where any decision of a faculty or department has prejudiced the student concerned, the Chair may, after consultation with the Dean of the faculty involved, order the student reinstated or otherwise relieved of the prejudice pending the final decision of the Committee on the grievance. Failure of the student to grieve the case within a reasonable time after the prejudice has accrued shall be a ground for the Chair to refuse to exercise the power granted in this paragraph.
- 3.4 In exercising the powers under Sections 3.2 or 3.3, the Chair may consult with the legal assessor.
- 3.5
 - (a) Upon compliance with Section 3.2, a meeting of the Committee shall be held. The Committee may at that time request submissions from additional parties if it considers them useful or necessary for its deliberations.
 - b) The Committee may dispense with a hearing if the submitted materials indicate that there are no material facts in dispute.
 - (c) Prior to deciding the case without a hearing, the Committee shall allow each party and advisor to appear before the Committee in the presence of the other party and make an oral argument which may include a contention that a hearing be held. Prior to such oral argument, the Committee may indicate to the parties specific areas which should be addressed in their arguments.
- 3.6 If there are material facts in dispute, or for any other reason the Committee considers sufficient, the Committee shall hold a hearing.

4.0 Hearing Rights and Procedures

- 4.1 A logged audiotape recording of the proceedings shall be made at the University's expense for the use of the Committee and may be made available to the participants. This logged audiotape shall be retained by the University for a two-year period subsequent to the rendering by the Committee of its decision, after which it may be destroyed.
- 4.2 The Chair, in consultation with the legal assessor, shall determine the procedures to be followed during the hearing including such items as the order of presentations by the parties, the order of witnesses and the exclusion of witnesses, subject to the following provisions:
 - 4.2.1 Each party shall have the right to introduce oral or written evidence, to call and cross-examine witnesses, to examine the evidence submitted by the other party, and to question that party.
 - 4.2.2 The rules of evidence applicable in civil and criminal court proceedings shall not apply to the hearing. Evidence which is not substantially relevant shall be excluded.
 - 4.2.3 Each party and that party's advisor may address the Committee, question and cross-examine the other party and any witnesses who may have been called.
 - 4.2.4 Any member of the Committee, voting or non-voting, may suggest that a witness be recalled. Any member of the Committee, voting or non-voting, may put questions to the parties or to the witnesses.
- 4.3 The legal assessor is neutral between the parties. The role of the legal assessor is to advise the Committee as to the fair conduct of proceedings, but the legal assessor shall not participate in the decision. The Chair shall inform the parties as to the substance of this provision.
- 4.4 If either party fails, without reasonable excuse, to attend the hearing, the Chair may proceed with the hearing and a decision in the party's absence or, at the Chair's discretion, postpone the start of the hearing. If the hearing proceeds in the party's absence, all rights contingent on the party's presence are forfeited.
- 4.5 Other questions of procedure and evidence that may arise during the hearing, including any challenge to the procedures antedating the hearing, shall be resolved by the Chair after consultation with the legal assessor. No error in procedure shall result in annulment of the proceedings if in the Chair's judgement the error did not cause prejudice to either party.

5.0 Disposition

- 5.1 The Committee shall be empowered to order such final or interim actions as it sees fit, having due regard to the circumstances of the case.
- 5.2 The Committee shall not be empowered to substitute its judgement for the academic evaluation of any instructor, department or faculty. In the event the Committee is of the opinion that such academic evaluation was arrived at improperly, that is, arbitrarily, without fair procedure, through bias, or for any other reason amounting to a failure of natural justice, the Committee shall set aside said academic evaluation. It may then fashion any remedy it considers appropriate under the circumstances, including reassessment of the academic work in question by an impartial and competent person or persons acceptable to both parties within a reasonable period of time determined by the

Chair and who may, if necessary, be from outside the University. If agreement is not achieved within the specified period, the Chair shall appoint the person or persons.

- 5.3 The decision of the Committee and the reasons for the decision shall be communicated in writing through the Secretary of Senate to the President and the two parties.
- 5.4 The President or the President's delegate shall ensure that the decisions of the Committee are implemented without delay.
- 5.5 Copies of the decision, with the names of parties, persons directly affected, and departments deleted, shall be placed on file in the office of the Dean of Students.
- 5.6 The decision of the Committee shall be final within the jurisdiction of the University, save for a challenge taken to the Appeal Committee for Student Discipline and Grievance.

6.0 Appeals

- 6.1 The Appeal Committee shall be composed as follows:
 - 6.1.1 The members of the Appeal Committee shall be appointed by Senate for staggered renewable three-year terms, with the exception of student members who shall be appointed on a one-year basis, renewable twice. All terms shall be effective 1 September.
 - 6.1.2 Membership shall consist of:
 - i) a Chair, selected from the academic staff;
 - ii) eight other members of the academic staff;
 - iii) six students (three graduate and three undergraduate);
 - iv) A Legal Assessor shall be appointed as a non-voting member of the Committee. The Legal Assessors for the CSD and the Committee on Student Grievances shall in rotation act as Legal Assessors for the Appeal Committee. The Legal Assessor on an appeal shall in no instance be the same individual who served as a Legal Assessor on the original discipline hearing.
 - 6.1.3 As far as possible, members shall be drawn from different faculties.
 - 6.1.4 Committee members shall stay on past the end of their terms in order to complete a case where a hearing has begun or proceeded before then.
 - 6.1.5 The legal assessor is neutral between the parties. The role of the legal assessor is to advise the Committee as to the fair conduct of proceedings, but the legal assessor shall not participate in the decision. The Chair shall inform the parties as to the substance of this provision.
 - 6.1.6 In the event that a suitable Appeal Committee cannot be convened, the President shall designate the membership of the Appeal Committee.
- 6.2.1 Decisions of the Appeal Committee shall be by a simple majority of the voting members.
- 6.2.2 All meetings and hearings of the Appeal Committee shall be closed unless the Committee directs otherwise and both parties consent. All documents submitted to the Appeal Committee shall be confidential.
- 6.2.3 All hearings of the Appeal Committee shall be audiotaped at the expense of the University. The University retains the right to dispose of the audiotape once final judgement of the Appeal Committee has been rendered.

- 6.3 Either party may appeal the decision of the Senate Committee on Student Grievances under the following circumstances:
- (1) Where new evidence which was not available to a party at the time of the original hearing has been discovered; or
 - (2) Where a breach of natural justice has occurred;
- AND where the outcome of the case at the original hearing might have been substantially affected by any of the above circumstances.
- 6.4.1 A party wishing to appeal must notify the Secretary of Senate of the intention to do so within 14 days of receiving official notice of the decision of the Senate Committee on Student Grievances. The notice of appeal must be accompanied by a concise written statement that identifies precisely the grounds upon which the appeal is based. Neither the notice of appeal nor the accompanying statement shall contain argument.
- 6.4.2 Where the basis of the appeal is new evidence, such new evidence shall be described clearly and the names of any witnesses shall be provided.
- 6.4.3 The respondent shall submit a concise written reply to the appellant's notice of appeal and the grounds invoked within 14 days of receiving the notice of appeal. This statement shall identify the respondent's position on each ground of appeal but shall not contain argument.
- 6.4.4 Only those portions of the record of the Senate Committee on Student Grievances (i.e. audiotape re-cording, documents submitted, judgement) identified by the parties as relevant to the grounds of appeal shall be released by the Secretary of Senate to the sub-committee of the Appeal Committee for the purpose of deciding whether leave to appeal should be granted.
- 6.4.5 All parties to the appeal shall have access to the audiotape recording for the purpose of preparing their statements.
- 6.4.6 When requested to do so by the sub-committee, the Chair of the Senate Committee on Student Grievances shall submit a statement to the sub-committee clarifying any issues relevant to the grounds of appeal.
- 6.5 No action ordered nor finding made under Section 5.2 shall take effect until the appeal has been disposed of.
- 6.6 A sub-committee of the Appeal Committee, consisting of three members of the Committee (one of whom shall be a student) and the legal assessor, shall be convened by the Chair of the Committee to determine whether the appeal should be heard on its merits. Such meeting shall take place within 40 days of the notification of appeal under Section 6.4.1, unless the parties agree otherwise or in circumstances in which delay is unavoidable. The months of July and August shall not be taken into account when calculating the above delays. The sub-committee shall base its decision on the record as defined in Section 6.4.1 through 6.4.6 and oral representations by the parties. The decision of the sub-committee is not subject to appeal.
- 6.7.1 If the sub-committee grants leave to appeal, the appeal shall be heard by the Appeal Committee as defined in Section 6.1. The Appeal Committee shall conduct this hearing represented by five of its voting members: the Chair, two academic staff, and two students (one graduate and one under-graduate). The Appeal Committee shall be convened within 40 days of the decision of the sub-committee unless the parties agree

otherwise, or in circumstances in which delay is unavoidable. The months of July and August shall not be taken into account when calculating the above delays. In its consideration of the appeal, the Appeal Committee shall hear oral submissions by the parties and may review any relevant information in the written record and/or in the audiotape recording of the original hearing as directed by the parties. Witnesses shall not be called except those authorized by the sub-committee to produce new evidence.

- 6.7.2 If the Appeal Committee determines that the decision of the Senate Committee on Student Grievances was reasonable, the original decision shall remain undisturbed.
- 6.7.3 In the event that the sub-committee finds that substantial new evidence has been discovered or if it rules that exceptional circumstances of the case require it, the Appeal Committee shall rehear the case in its entirety and shall have all the powers of the original Senate Committee on Student Grievances. In such cases the parties shall have a minimum of 14 days to prepare.
- 6.8 The President or the President’s delegate shall ensure that the decisions of the Appeal Committee are implemented without delay.
- 6.9 Within the jurisdiction of the University, the decision of the Appeal Committee is final.

<i>History:</i>		
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Senate	October 23, 1985	Minute 20
<i>Amended:</i>		
Senate	January 20, 1993	Minute 59
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