
ANNUAL REPORT OF APPEALS AND COMPLIANCE OFFICER**2014 – 2015**

Scope

This report covers the period of July 1, 2014 to June 30, 2015. Some statistics for previous years are also included for comparison.

This report sets out information about discipline decisions and the appeal process under the Code of Student Behaviour (COSB) and the Code of Applicant Behaviour (COAB), with a focus on the university appeal level of the University Appeal Board (UAB). This report also sets out information for the two other university level appeal bodies, the General Faculties Council Academic Appeals Committee (GFC AAC) and the General Faculties Council Practice Review Board (GFC PRB), again focusing on the university appeal level.

Role of the Appeals Coordinator

As Appeals and Compliance Officer, I carry out the role of the Appeals Coordinator under the COSB, COAB, University of Alberta Academic Appeals Policy and University of Alberta Practicum Intervention Policy for the UAB, GFC AAC and GFC PRB. In this role I am neutral and do not advocate for either party in an appeal. I facilitate or administer the appeal process steps from the time an appeal is received, through the hearing and decision made by an appeal panel, to distribution of the written decision. I also provide procedural information to the parties to an appeal and to the appeal panel throughout the appeal process.

Apart from individual appeals, I also oversee the university level appeal system to ensure that the university continues to implement a fair process by which to address appeals. This includes helping to educate panel members as to the framework within which they work when hearing appeals and attempting to help the university community understand that framework. This report will hopefully aid in that understanding.

University Level Appeal Process

The university level appeal system is made up of three main appeal bodies – the UAB, the GFC AAC and the GFC PRB.

Discipline decisions arise as a result of a student being charged with an offense (academic and/or non-academic) under the COSB or COAB. When the appropriate decision-maker has made a final decision as to offense and sanction, any parties to that decision have a final appeal to the UAB.

The UAB generally hears appeals from students charged under the COSB or COAB who disagree with the discipline decisions. UAB decisions are final and binding, within the university, subject to judicial review. Under the COSB the UAB has the broad authority to determine whether an offense was committed and to confirm, vary or quash sanctions imposed.

Under the Academic Appeal Policy, academic standing issues are heard by the GFC AAC. The GFC AAC hears appeals from students wishing to appeal faculty decisions on matters of academic standing, including matters such as a requirement to withdraw, denial of graduation or promotion. The GFC AAC hears appeals from students after they have exhausted all other avenues of appeal within a faculty. GFC AAC decisions are final and binding, within the university, subject to judicial review. The authority of the GFC AAC is to uphold (and award any remedy not inconsistent with faculty rules) or deny an appeal depending upon whether a miscarriage of justice, as defined by the Academic Appeals Policy, occurred within the faculty process.

Under the Practicum Intervention Policy, appeals concerning practicum interventions are heard by the GFC PRB. The GFC PRB's decisions are final and binding, within the university, subject to judicial review.

A fourth body, the Three Person Panel under section 30.5.2(8) of the COSB, deals with appeals of decisions not to proceed with complaints. (Subsequent to the time period of this report, the COSB was revised to set up a new system for such decisions, eliminating the Three Person Panel.)

Principles of the Appeal Process

Appeals at the university level deal with complex issues affecting students, faculties and the university as a whole. Given this impact, and the fact that this is the final level of appeal so that the issues will be heard for the last time within the university, it is very important that the appeal process is fair and perceived to be fair. Coming to decisions through a fair process is also a means to promote confidence in those decisions by the parties and the appeal panels themselves. Being the final level of appeal, the decisions or process may also be subject to judicial scrutiny.

The authority of the appeal bodies (UAB/GFC AAC/GFC PRB) flows from the powers delegated under the *Post-Secondary Learning Act* and the appeal bodies carry out their authority as outlined in the applicable university appeal policy, and in keeping with the principles of administrative fairness. The principles of administrative fairness are the basis for our appeals policies, help us to interpret those policies and provide the framework within which our appeal panels make decisions.

While the appeals process may at times seem complicated and time-consuming, the formal steps of our process recognize the impact and finality of these decisions and ensure the opportunity for parties to an appeal to make their best cases and be heard. Our appeals process is not a court process, but has been designed to allow for students and university decision-makers to be able to be heard by an objective panel coming from the university community. The system is flexible in that it is able to deal with a wide variety of appeals and circumstances (from students and university staff representing themselves or being helped by on-campus advisors, to appeals involving lawyers

representing both parties) through consistently applying basic principles of administrative fairness. At its core, our appeals system involves the parties fully disclosing and knowing their cases before an appeal hearing, then appearing at a hearing where they are able to present and question arguments and information before an objective appeal panel. (The UAB process also allows for the option of a paper-only or documentary review hearing, rather than an in-person hearing, when only the severity of sanction, and not the offense, is being appealed.) The appeal panel then considers and weighs all of the submissions of the parties and comes to a decision, which it fully explains in writing.

Current Trends

As can be seen in the attached statistics, the significant increase in the number of appeals to the university level appeal bodies seen in 2013-2014 has been sustained. The current year-to-date suggests we will again see a similar number. 2014-2015 saw the continued increase in the number of overall decisions made by Deans, with the majority of those decisions concerning the academic offenses of plagiarism and cheating. That increase in turn explains, at least in part, the sustained larger number of appeals. Although not statistically tracked, a significant number of appeals are received from international students.

2014-2015 also saw an increase in the number, complexity and time spent addressing issues (including dealing with parties' legal counsel) of appeals to the UAB of non-academic offenses under the COSB.

Appeal panels have continued to address complex issues during the appeal process. This includes procedural requests and issues raised by the parties to appeals both before and during hearings. When such issues are raised, the appeal panel chair (and sometimes the full appeal panel) must decide how to address the issue, consider the arguments and circumstances, and then come to a decision to address the issue. The chair (and sometimes full panel) does this through consultation with the Appeals Coordinator, obtaining legal advice when necessary. Again, all such decisions are made consistently with the relevant appeals policy and principles of administrative fairness, with the aim of providing both parties a fair opportunity to be heard. Appeals involving legal counsel representing one or both parties are often of a complex nature and often take more time throughout the process.

As a result, the timeframe for an appeal to be completed varies. Some appeals have more procedural issues to address due to the understanding of the parties, some appeals have more procedural issues to address due to the nature of the appeal itself.

In previous years I found that some of the procedural issues that the appeal panels had to deal with were due to the understanding of the process by the parties. Working within my role, and with the help of the Office of General Counsel, I have continued to promote an understanding of the appeal process and the principles upon which it is based, through meeting with individual students, student advisory groups and faculty groups.

In my past annual report I noted two examples – documentary evidence and witnesses - in the UAB process where procedural issues can arise, leading to arguments by the parties and extra steps in the appeal process. I believe the

past year saw an increased understanding in the university community of the framework and principles of a fair appeal process within which the appeals panels address such issues, including the authority of the appeal panels and the appeal process as outlined in the appeal policies, so that parties have been able to more effectively present their cases and provide the appeal panels with the information they need to make reasonable decisions.

Specifically, the appeal procedure outlined in the COSB provides for a disclosure process so that both parties are able to prepare within a reasonable time before the appeal hearing. If evidence is submitted with too little time before a hearing, this can lead to the possibility of postponing the hearing. If new evidence or an unnamed witness is attempted to be introduced at a hearing, the COSB contains a section that has as its starting point the fact that the UAB can refuse to accept introduction of the evidence, on the basis that it would be an unfair surprise to the other side and disadvantage them in being able to present their case. However, the COSB also allows the UAB to allow any evidence it deems appropriate. If the UAB decides, after hearing from both parties, that the information is needed, it may decide to remedy any potential unfairness by providing time for the other side to prepare, through an adjournment. The UAB is not an investigative body, but tries to make its decisions based upon the evidence presented by the parties. When issues such as this are raised, though, the UAB will consider how to address the matter based on the principles of fairly allowing both parties to present their cases and having available all the relevant information it needs to come to a decision.

When witnesses are involved, the COSB appeal process includes both parties providing a witness list by a time specified before the hearing. If a new witness is named at a hearing, the UAB will address the resulting issue in a similar manner as it does any proposed new evidence. Difficulties have arisen in some cases where no witnesses were called, yet were needed by the UAB to speak to and be questioned about an issue directly in dispute. If it deems it necessary, after hearing from both parties, the UAB can direct that a party call a witness, after an adjournment for both parties to prepare. As with any evidence, the starting point is that it is up to the parties to decide how to best present their cases and who to call as a witness, if anyone. However, circumstances can arise whereby the UAB is asked to or decides it needs to address the issue. Whether a witness' attendance is needed or not depends on what is at issue and in dispute in the appeal, and what a witness may add.

Appeal Panel Membership

All of the university level appeal panels are made up of volunteers. While the exact makeup of a panel depends on the applicable appeal policy, generally the panels are a combination of undergraduate/graduate students and academic staff selected from the university's appeal panel membership lists. Members serve on approximately six appeal panels within a calendar year, but this number varies depending on the number of appeals received and the faculties involved. Appeal panel members come from the greatest variety of faculties possible. For objectivity, no appeal panel member may sit on an appeal involving a party from his or her faculty. Appeal hearings are scheduled throughout the academic year, including summer, mostly in evenings around academic schedules. Student panel members usually serve for two year terms, while academic staff panel members usually serve for three year terms (with the possibility of serving additional terms).

In addition to their understanding of the university environment from their experience as students (both undergraduate and graduate) and academic staff, our panel members are provided ongoing training in understanding the principles of administrative fairness within which their tribunals operate. This helps to ensure that, as discussed above, the appeal process is a fair one, with both parties to an appeal being given the opportunity to fully make their cases to an objective decision-maker.

The service of appeal panel members is a significant commitment, including considering and addressing procedural issues arising before and during hearings, conducting hearings, deliberating and drafting written reasons for decisions. All of our panel members recognize the need to objectively hear submissions from parties to an appeal, analyze and weigh evidence, then come to a reasonable decision based on that evidence. I try to ensure that appeal panels have all the needed resources to perform this role. I thank all of the appeal panel members for serving our university community, often addressing difficult issues involving student careers, faculty standards and the integrity and values of the university. Our appeal panels uphold the values of fair decision-making, of a fair appeal process and of the university as a whole, for both students and faculty.



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January 20, 2016

Attachments: Statistics for Discipline Decisions and the University Level Appeal Process

[All appeal statistics based upon year of appeal deadline.]

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Table 1

Number of Appeals Received by University Governance					
<i>Judiciary/Academic Year: July 1 through June 30.</i>					
	July 1, 2010 - June 30, 2011	July 1, 2011 - June 30, 2012	July 1, 2012 - June 30, 2013	July 1, 2013 - June 30, 2014	July 1, 2014 - June 30, 2015
University Appeal Board	14	17	12	22	20
GFC Academic Appeals Committee	2	4	5	9	7
GFC Practice Review Board	1	0	1	0	0
Three Person Panel	0	0	1	0	0
TOTAL NUMBER OF APPEALS	17	21	19	31	27

- these numbers reflect number of appeal cases
- a student can be charged with more than one offense and can appeal the charge(s), sanction(s) or both the charge(s) and sanction(s) in an appeal case

Table 2

**UAB Disposition of Appeals
July 1, 2014 to June 30, 2015**

Appeal Upheld	5
Appeal Denied	11
Sanction Increased	1
Sanction Decreased	3
Sanction Timing Varied	0
Appeal in Progress (Undetermined)	2
Appeal Withdrawn	2
Total Appeal Cases	20

- as students can be charged with and appeal more than one offense, and because appeals may concern the charge(s), sanction(s) or both, the total number of appeal cases and the number of appeals upheld/denied/in progress/withdrawn (by charge) and/or sanctions increased/decreased/timing varied will not necessarily match
- if sanctions were not increased/decreased/timing varied, the sanctions were confirmed and stayed the same

Table 3

**GFC AAC Disposition of Appeals
July 1, 2014 to June 30, 2015**

Appeal Upheld	2
Appeal Denied	3
Returned to Faculty	0
Taken Back by Faculty	2
Appeal Withdrawn	0
Total Appeals	7

“Returned to Faculty” means the GFC AAC decided at the appeal hearing to return the matter to the Faculty Academic Appeals Committee for re-hearing, based upon new evidence being introduced at the appeal hearing.

“Taken Back by Faculty” means the student provided new information as part of the appeal and, before the GFC AAC hearing, the Faculty chose to reconsider the matter at the Faculty level.

Table 4

**GFC PRB Disposition of Appeals
July 1, 2014 to June 30, 2015**

Appeal Upheld	0
Appeal Denied	0
Total Appeals	0

**Three Person Panel Disposition of Appeals
July 1, 2014 to June 30, 2015**

Appeal Upheld	0
Appeal Denied	0
Total Appeals	0

Table 5

Category Of Sanction By Decision Maker Under COSB**July 1, 2014 to June 30, 2015**

Sanction Type Description	Count	Final Decision By
DO dismissed charges	1	Discipline Officer
Exclusion	1	Dean
Less Than Suspension or Expulsion	381	Dean
Less Than Suspension or Expulsion	13	Discipline Officer
Less Than Suspension or Expulsion	1	Registrar
Less Than Suspension or Expulsion	10	UAB
Suspension or Expulsion	20	Discipline Officer
Suspension or Expulsion	4	UAB
UAB dismissed charge	2	UAB
UAB appeal in progress - undetermined	2	UAB

Table 6

Code of Student Behaviour Discipline Decisions

July 1, 2014 to June 30, 2015

Charge Description	1	2	3	4	5	GS N/A	N/A	N/A Applicant
Cheating	37	60	16	20		1	12	
Misrepresentation of Facts	7	4	3	3		1	1	
Participation in an Offence	2	4	3					
Plagiarism	103	62	33	37		18	30	
Innappropriate Behaviour in Professional Programs		3	1					
Misuse of Confidential Materials		2	3	1				
Breach of Rules External to the Code				1				
Damage to Property	2		1	1		1		
Disruption	4	1		1			1	
Dissemination of Malicious Material	1							
Unauthorized Use of Facilities, Equipment, Materials, Services or Resources	1							
Violations of Safety or Dignity	7	1	1	3		2	1	

Columns 1 through 5 refer to year of program of student when offense occurred.
 GS N/A refers to graduate student not applicable (i.e. no program year).
 N/A students are students in Open Studies, Visiting Students, Previous Students and Special Students.
 N/A applicant refers to students reapplying who have been charged with offence re application; do not have a year of program.
 A student can be charged with more than one offense, so charges and case numbers will differ.

Table 7

**Code of Applicant Behaviour Discipline Decisions
July 1, 2014 to June 30, 2015**

Charge Description	COAB Applicant
COAB Misrepresentation of Facts	8

Table 8

**Cases Reviewed by Deans, University of Alberta Protective
Services, Unit Directors and Discipline Officers Under the
Code of Student Behaviour
July 1, 2014 to June 30, 2015**

Decision Maker	Forwarded By	Count
Dean	Not Applicable	382
Discipline Officer	Dean UAPS	18 16
Registrar	Not Applicable	1
UAB	Not Applicable	16

In all cases where a sanction of suspension or expulsion has been recommended by a Dean the case goes to the Discipline Officer for review and adjudication.

Table 9

**Cases Reviewed Under the Code of Applicant Behaviour
July 1, 2014 to June 30, 2015**

Decision Maker	Forwarded By	Count
Dean	Not Applicable	2
Registrar	Not Applicable	6

Table 10

Charge Count By Category Of Sanction And Decision Maker under COSB
July 1, 2014 – June 30, 2015

Decision Maker	DO Dismissed charge	Exclusion	Less Than Suspension or Expulsion	Suspension or Expulsion	UAB dismissed charge	UAB Appeal in progress - undetermined
Agricultural, Life and Environmental Sciences	1		16	1		
Arts			167	14		1
Augustana		1	13			
Business			14	2		
Education			7			
Engineering			59			
Extension			52	2		
Graduate Studies and Research			5	2		
Medicine and Dentistry			6			
Nursing			14			
Physical Education and Recreation			4			
Science			82	4		
UAPS			18	10	4	1

Table 11

**Charge Count By Category Of Sanction And Decision Maker Under COAB
July 1, 2014 to June 30, 2015**

Decision Maker	COAB - Refuse Application up to 5 years
Graduate Studies and Research	2
Registrar's Office	6

Table 12

**Case Count By Category Of Sanction And Decision Maker under COSB
July 1, 2014 – June 30, 2015**

Decision Maker	DO Dismissed charge	Exclusion	Less Than Suspension or Expulsion	Suspension or Expulsion	UAB dismissed charge	UAB Appeal in progress - undetermined
Agricultural, Life and Environmental Sciences	1		16	1		
Arts			154	8		1
Augustana		1	13			
Business			14	2		
Education			7			
Engineering			38			
Extension			52	2		
Graduate Studies and Research			5	1		
Medicine and Dentistry			6			
Nursing			14			
Physical Education and Recreation			2			
Science			72	3		
UAPS			12	7	2	1

Table 13

**Case Count By Category Of Sanction And Decision Maker Under COAB
July 1, 2014 – June 30, 2015**

Decision Maker	COAB - Refuse Application up to 5 years
Graduate Studies and Research	2
Registrar's Office	6