



<b>Policy</b>	#3-30
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<b>Administrator Responsible:</b>	Vice President, Students & Community Engagement

## **STUDENT APPEALS**

### **POLICY STATEMENT**

North Island College (the “College”) supports the need for students to have their appeals heard in a timely manner with a process that is transparent and unbiased and is in accordance with procedural fairness.

### **PURPOSE STATEMENT**

The purpose of this policy is to provide a process for hearing student appeals of academic and non-academic decisions that do not involve suspensions. Examples of decisions that may be appealed under this policy include grade-related decisions and academic and non-academic misconduct decisions.

### **PRINCIPLES**

1. Students and employees are encouraged to resolve matters through dialogue and processes as described in NIC Policy #3-31 Student Complaint Resolution.
2. Student appeals will be heard in accordance with the basic principles of procedural fairness.
3. Student appeals will be heard in a timely manner.
4. This policy relates to student concerns when the student believes the final decision maker has made a factual error, and that the process has not been properly administered within this or other college policies and processes.
5. Students who have been suspended by the President have a right of appeal to the Board of Governors (Board of Governors Bylaw No. 3, 2017 and Board of Governors Policy GP-9 Student/Employee Appeals to the College Board of Governors).

## **DEFINITIONS**

### *Anonymity*

Withholding of one's name.

### *Appeal*

A request to have a final decision reviewed by the appeal committee panel.

### *Appellant*

The student who has initiated the appeal and has the responsibility to gather and provide evidence that substantiates grounds for the appeal.

### *Appeal Advisor*

The Director of Student Affairs, or their designate, who facilitates the appeal process for all parties and conducts investigations as necessary. As a neutral liaison in the process, this person will ensure information is gathered and provided to involved parties as appropriate. The appeal advisor is responsible for determining and recommending appropriate assistants. This person will remain neutral and will not normally attend appeal hearings.

### *Appeal Panel*

The group of college members who will hear the appeal and decide the outcome. The appeal panel will be selected by the office of the Vice President, Academic (or their designate) from the appeal panel pool and normally consists of two students, two faculty members, the Vice President, Academic (VP, Academic) or their designate. No member of the panel can be in a position of real or perceived conflict of interest or bias in relation to the particular appeal or matters leading up to the appeal; faculty and students must be from programs other than that of the appellant.

### *Appeal Panel Chair*

The appeal panel will normally be chaired by the VP, Academic or their designate. In all cases, the chair must be trained in adjudicative tribunal hearings.

### *Appeal Panel Pool*

The appeal panel pool will be selected annually by the office of the Vice President, Students & Community Engagement and normally consists of no fewer than six students and six faculty. At least four non-student members must be trained in adjudicative tribunal hearings. There will be no maximum length of term to belong to the appeal panel pool.

Students will be selected in consultation with the North Island Students' Union and will be in good standing, have completed at least 15 academic credit or equivalent hours at the College and have a cumulative GPA of 2.0 or better.

*Assistants*

Persons requested by any involved party and recommended by the appeal advisor to assist during the appeal hearing with matters such as language translation and sign language interpretation, cultural expectations and any other related challenges which could impede a fair hearing. An assistant must be approved by the appeal panel chair and does not participate in the discussion other than for the purposes mentioned above. An assistant is not an advocate for a party.

*College Community*

Employees and students of the College, including contractors and others who have committed to an agreement with the College to provide services or become learners.

*Confidentiality*

Non-disclosure of particular information.

*Good Standing*

All students will be deemed to be in good standing unless their student account is in financial arrears and/or there is a current discipline related violation filed with the office of the Vice President, Students & Community Engagement and/or the Director of Student Affairs.

*Hearing*

A formal and confidential proceeding in which the appellant and respondent present their case to an appeal panel for a final decision regarding an appeal initiated by the appellant.

*Investigation*

Review and fact-finding process conducted by the appeal advisor to ensure that the relevant information is provided as necessary throughout the process.

*Notice of Appeal*

The form (see Appendix D) as completed by the appellant and accompanied by supporting documents.

*Principles of Natural Justice*

- i. Audi alteram partem “listen to both sides” – any person who is being accused of something has the right to know the accusation and must be given a reasonable opportunity to respond to the accusation, to offer rebuttals and to provide counter evidence.
- ii. Nemo iudex rule – no person shall be a judge in his or her own case, and every person has the right to an unbiased and independent decision maker.

*Procedural Fairness*

A term used alternatively with natural justice to describe process conditions that are fair, transparent and in compliance with the principles of natural justice, including the audi alteram partem and nemo iudex rules.

*Respondent*

The person against whom the appeal is filed. The appeal advisor will determine who the most appropriate person is to be the respondent in any particular appeal. The respondent will normally be the decision-maker whose decision is being appealed.

*Student Advocate*

A representative from the North Island Students' Union who may provide assistance to students in addressing fairness issues, resolving disputes and assisting with appeals. If requested, the student advocate may attend an appeal hearing with the student but will not participate or provide comment during the hearing.

*Support Person*

A person present at the appeal hearing upon the request of either party. This person will not participate or provide comment during the hearing.

*Student*

A person the Vice President, Students & Community Engagement recognizes to be enrolled in or applying to be enrolled in a course or program of studies at the College.

*Witness*

Person invited by either party to attend the hearing and as requested by the chair. Witnesses will be present only when providing evidence or responding to questions from the appeal panel. Failure of a witness to appear will not impact the proceedings. Witnesses are responsible for their own costs of participating in a hearing.

**Guidelines**

1. Appeal hearings will be used to address decisions made under the jurisdiction of the College policies affecting students, as detailed within the specific policy.
2. An appeal hearing is not a rehearing of a complaint, nor is it an opportunity to present unrelated evidence or another complaint. The chair may exercise their discretion to request or permit additional relevant evidence pertaining to the appeal to be provided during the hearing where such evidence was not available at the time of the decision being appealed.
3. An appeal cannot be used to prolong a decision.
4. An appeal cannot be used to change a decision because the respondent does not like the decision or feels it to be unfair. An appeal is to be used only in the event that a decision has been made that is incorrect due to a procedural error or where new evidence has come to light that was not available at the time of the original decision which could affect the outcome of the decision.
5. The appeal advisor will assist with the process when and where needed as an independent guide to process but will not normally participate in the appeal hearing.

6. Except in cases where an instructor and/or department chair determine there may be a risk to safety or other disruptions that may occur in the teaching and learning environment, a student will be expected to continue in courses, practica or other related educational activities pending the outcome of the appeal process.
7. Students may have assistants available as requested or as recommended by the appeal advisor to assist with comprehending process and discussions. Assistants may include, but are not limited to, sign language interpreters, cultural advisers and translators. The provision of assistants will be determined on a case-by-case basis.
8. The appellant may withdraw their appeal request at any time prior to the hearing. In such cases, the matter will be deemed resolved and further appeals of the same decision will not normally be accepted.
9. Both the appellant and the respondent must appear at the hearing. Appearance may be made in person, by video link or by telephone. Failure of a party to appear without prior notice may cause the decision to be made in favour of the attendee. In extenuating circumstances, the hearing may be rescheduled at the appeal panel chair's discretion.
10. The appeal advisor will retain the record of an appeal, which must be provided to the appeal advisor by the chair following the appeal hearing. No other copies of the appeal record will be retained except for database backup copies as per institutional practice.
11. The appeal process will be confidential for all parties; however, anonymity cannot be guaranteed. Information will be shared and protected in compliance with the Freedom of Information and Protection of Privacy Act (British Columbia) or as required by law.

### **Limitations**

Legal counsel will not normally be permitted at the appeal hearing.

The College retains the right to refuse to hear an appeal that is malicious, vexatious or frivolous.

Student appeals may be heard by the College, independent of related matters being heard in a court of law or other administrative or quasi-judicial proceedings.

### **Resources**

The National Center for Higher Education Risk Management (NCHERM) Group, LLC

Systems-level solutions for safer schools and campuses. A Developmental Framework for a Code of Student Conduct. 2013

### **Legislative and Collective Agreement References**

Freedom of Information and Protection of Privacy Act (British Columbia)

College and Institute Act (British Columbia)

**Cross References**

Board of Governors Bylaw #3, 2017

Board of Governors Policy GP-9: Student/Employee Appeals to the College Board of Governors

Community Code of Academic, Personal and Professional Conduct Policy #3-06

Instructional Accommodation and Access Services for Students with Disabilities Policy #3-17

Human Rights Policy #2-08

Student Complaint Resolution Policy #3-31

## **APPENDIX A Procedures**

The appeal advisor will be involved to assist with the appeal process. To avoid perception of bias, it is essential that the appeal panel chair will not be advised of complaint matters that may proceed to a formal appeal. In the event there is a perception of bias, an alternate chair may be designated.

The appeal advisor will help the appellant determine the most appropriate respondent. In the case that the complaint is regarding a policy or department, the Vice President, Students & Community Engagement will identify the respondent responsible for that area. The respondent to an appeal will normally be the person who made the final decision. For example, in matters of academic integrity violations, the dean will normally be the respondent.

### **Stage 1: Notice of Appeal**

1. Within 10 business days of receiving a decision, the appellant may initiate an appeal of that decision by filing a 'Notice of Appeal' with the appeal advisor. The Notice of Appeal form (Appendix D) must be accompanied by:
  - a. a statement of the grounds for an appeal;
  - b. the decision being appealed;
  - c. the resolution requested;
  - d. names of potential witnesses;
  - e. name of any assistant or support person who the student wishes to have accompany them to the hearing;
  - f. list of relevant documents and copies of all relevant documents; and
  - g. appeal application fee of \$25.00.
2. Within the next 5 business days, the appeal advisor will review the Notice of Appeal documents and request clarification or additional material if needed.
3. Within the next 5 business days of receiving the complete submission, the appeal advisor will deliver copies of the materials to the respondent.
4. Within 10 business days of having received the Notice of Appeal and
  - a. if upon review of the appeal documents, the respondent agrees with the resolution requested by the appellant, the appeal advisor will be advised. The appellant will be informed by the appeal advisor and the appeal will not proceed; in such instances, a new appeal cannot be filed regarding the same decision. Or,
  - b. if upon review of the documents, the respondent suggests an alternate resolution, the appeal advisor will be informed. The appeal advisor will inform the appellant who can decide to accept or reject the resolution.
    - i. If the appellant accepts the resolution, the appeal advisor will advise the respondent and a new appeal cannot be filed regarding the same decision. Or,

- ii. If the appellant rejects the resolution, the appeal advisor will advise the respondent and the appeal will proceed with the filing of a reply and documentation which will include:
  - 1) response to the appeal rationale;
  - 2) names of potential witnesses;
  - 3) the name of any support person who will accompany the respondent; and
  - 4) a list of relevant documents and copies of all relevant documents.
5. Within the next 5 business days, the appeal advisor will review the submission and request clarification or additional material if apparently needed.
6. Within 2 business days of receiving the completed submission, the appeal advisor will deliver copies to the appellant.
7. The appellant, within the next 2 business days, will be provided with an opportunity to review the respondent's submission and to make a decision whether to proceed to a hearing or not. New submissions are not normally accepted at this time, unless new evidence has come to light that was not available before or unless the respondent has introduced new information or evidence in their reply.

**Note:** If the appeal advisor deems it appropriate to accept new submissions from the appellant, then the documents will be provided to the respondent for a final review. In such cases, the respondent must send a written response to the appeal advisor within 2 business days of having received it.
8. Within the next 2 business days, if the matter is to proceed to a hearing, the appeal advisor will notify the chair of the appeal panel and provide all documents received by the appellant and the respondent.

**Time Limits** – These times are the desired maximum times that the appeal process should take and are integral to the fair and timely treatment of an appeal. Every effort will be made to adhere to the above-noted time limits, however time limits may be modified in extenuating circumstances, in consultation with the appeal advisor, to ensure procedural fairness.

If there is a reason that the timelines cannot be adhered to, either party may request, in writing to the appeal advisor, an extension, the rationale for the extension, and the additional time being requested.

The appeal advisor may grant or deny the extension taking into consideration any bias that may occur by doing so.

The appeal advisor may not allow an appeal to proceed if the Notice of Appeal is received after the deadline.

The appeal panel chair in consultation with the appeal advisor may dismiss an appeal without a hearing if, after reviewing the material filed, they determine they have no jurisdiction or if the appeal is clearly without merit, frivolous or vexatious or commenced in bad faith.



## **Stage 2: The Appeal Hearing**

### **1. Preparation**

- 1.1 The office of the VP, Academic (or their designate) will convene the appeal panel normally within **ten (10) business days** of receiving the completed appeal documents from the appeal advisor. The VP, Academic (or their designate) will chair the appeal panel.
- 1.2 The chair will gather all relevant material (submissions provided by the appellant and the respondent as a result of the Notice of Appeal) into appeal packets and will provide copies of the packets to all participants, including the appellant, with adequate time for review, however not normally exceeding one business day. If the chair determines that one day is insufficient time to review the documents, alternate arrangements will be made. In all cases, the packets will remain confidential and be the final submissions to the hearing.

Hearings will be deemed confidential. All recordings and notes from the hearings will be maintained by the office of the Director of Student Affairs.

### **2. Role and Duties of Participants**

#### *Appellant*

The student who has initiated the appeal and has the responsibility to gather and provide evidence that substantiates grounds for the appeal.

#### *Assistants*

Persons requested by any involved party and recommended by the appeal advisor to assist during the appeal hearing with matters such as language translation and sign language interpretation, cultural expectations and any other related challenges which could impede a fair hearing. An assistant must be approved by the appeal panel chair and does not participate in the discussion other than for the purposes mentioned above. An assistant is not an advocate for a party.

#### *Appeal Panel Chair*

The appeal panel will normally be chaired by the VP, Academic or their designate. In all cases, the chair must be trained in adjudicative tribunal hearings.

#### *Panel Members*

Members of the appeal panel pool selected to participate in the hearing.

#### *Respondent*

The person against whom the appeal is filed.

*Student Advocate*

A representative from the North Island Students' Union who will provide assistance to students in addressing fairness issues, resolving disputes and assisting with appeals. If requested, the student advocate may attend an appeal hearing with the student as a support person.

*Support Person*

The support person is present throughout the hearing but does not participate in the discussion unless called to do so by the chair. A support person is not an advocate for a party.

*Witnesses*

Both the appellant and the respondent may have witnesses participate. The names of these persons will be provided in advance of the hearing. They would attend only for a period of responding to questions and then would be dismissed.

**3. Process**

- 3.1 The chair will introduce all participants and provide a brief description of the purpose of the hearing, the procedures to be followed, and the confidentiality requirements. The appellant and the respondent may each have a student advocate or support person in attendance and may provide witnesses. The support persons and/or student advocate will not participate in the discussions. The chair has the discretion to determine relevancy of participants' statements and to request clarity as required.
- 3.2 The appellant will present their appeal and will respond to questions by the respondent and the appeal panel.
- 3.3 The appellant will be the first party heard. Their opening statement will contain a concise rationale of their concern with factual support to justify the remedy being requested. Only documents filed with the Notice of Appeal are presented. Questions to the appellant by the respondent and the panel will be made at the close of the statement.
- 3.4 The appellant's witnesses (if available) will be invited to the hearing to make a statement (provide evidence) and respond to questions by the respondent and the panel.
- 3.5 The respondent will present their statement, provide factual support of the decision or action being appealed, and respond to questions by the appellant and the appeal panel.
- 3.6 The respondent's witnesses (if available) will be invited to the hearing to make a statement (provide evidence) and respond to questions by the appellant and the appeal panel.
- 3.7 The chair, with discretion, may request or allow additional evidence pertaining to the case to be provided during the hearing, noting however that only issues relevant to the current appeal will be addressed during the hearing. Before concluding the hearing, the chair will ask the participants if they have any further relevant information to add.

- 3.8 The respondent, appellant, and other participants will be dismissed from the hearing. The appeal panel will remain to discuss and determine the decision.
- 3.9 The chair will write a letter describing the decision from the hearing; this letter will be provided to the appellant, respondent, dean/director and Director of Student Affairs normally within **two (2) business days** of the hearing. If the appeal is upheld, the appellant will be refunded the \$25.00 application fee.
- 3.10 In the event that the appeal panel determines that the appeal is clearly without merit, frivolous or vexatious or commenced in bad faith, the appellant and the respondent will be advised, and the appeal will be dismissed and may not be reheard. In some instances, sanctions in accordance with the Code of Conduct (Policy #3-06) may be administered.
- 3.11 Decisions of the appeal panel will be final unless the process has not complied with procedural fairness.

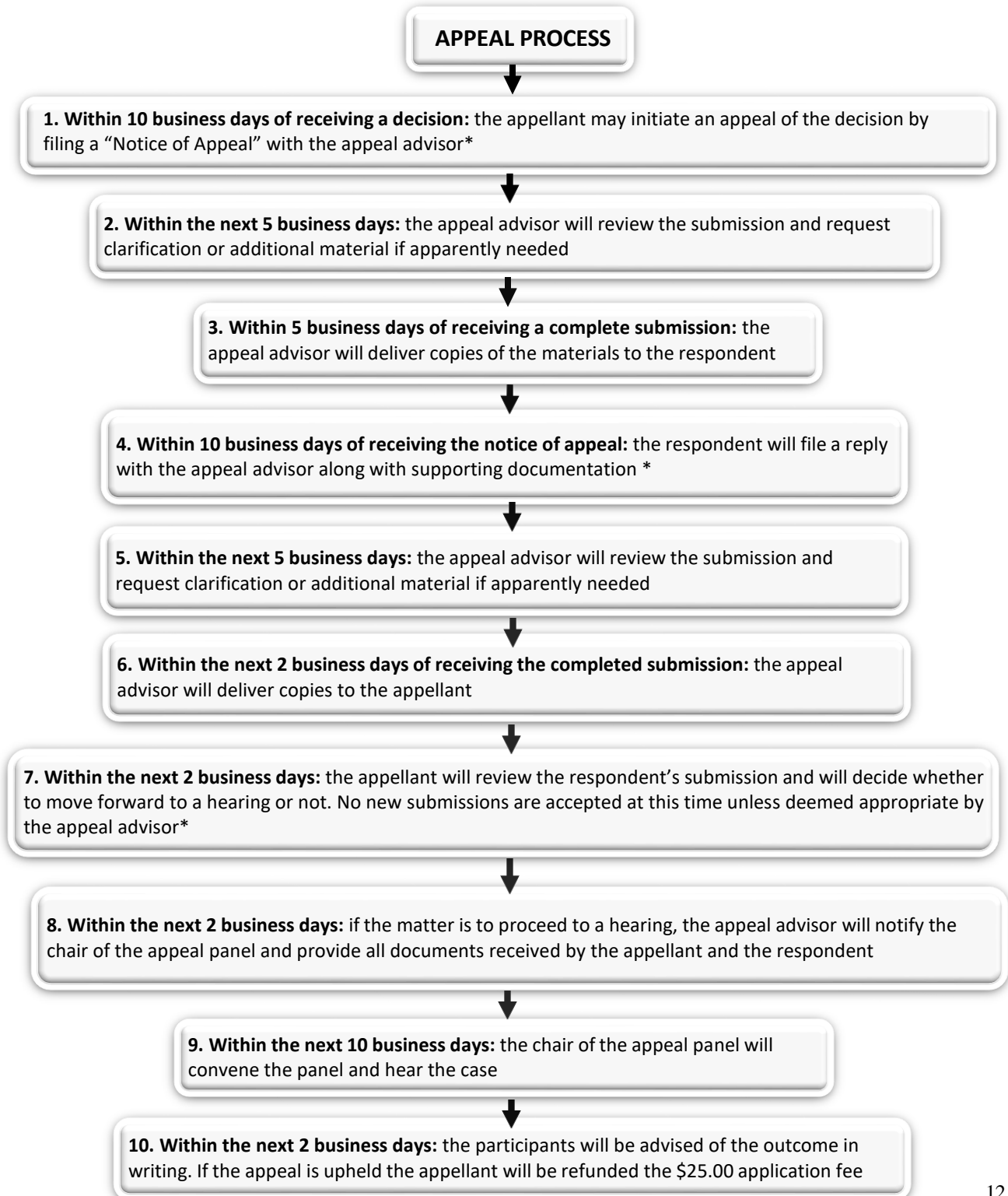
### **Stage 3: Challenging the Appeal Decision due to Lack of Procedural Fairness**

1. To challenge an appeal decision, the appellant or respondent will submit a letter to the VP, Academic, outlining the complaint, the issues concerning procedural fairness, and the resolution requested.
2. The appeal challenge, by either the appellant or the respondent, will normally be initiated within five (5) business days of when the appeal panel's decision is delivered to the appellant and respondent.
3. Within fifteen (15) business days, the VP, Academic will render a decision on the procedural fairness of the appeal process. In the event it is determined that procedural fairness has not occurred, the VP, Academic will recommend either that the case be reheard by a new committee (de novo) or will decide the case based on the evidence provided initially to the chair of the appeal panel and through meeting with the complainant and the respondent.
4. The decision of the VP, Academic will be final.

## APPENDIX B

\*For details please refer to Appendix A

**Time Limits:** These times are the optimum maximum lengths of time that these procedures should take and are integral to the fair and timely treatment of appeal requests



## APPENDIX C

### Appeal Timeline

Students must file a Notice of Appeal with the appeal advisor (normally the Director, Student Affairs or their designate).

\* For details please refer to Appendix A.

**TIMELINE** (business days) **Note:** These are the optimum maximum lengths of time allowed for each stage. The appeal advisor has discretion to extend or modify timelines where reasonable justification for doing so exists.

**1. Within the first business 10 days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 10 business days of receiving a decision, the appellant may initiate an appeal of that decision by filing a Notice of Appeal with the appeal advisor. \*

**2. Within the next 5 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 5 business days the appeal advisor will review the submission and request clarification or additional material if apparently needed.

**3. Within the next 5 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 5 business days of receiving the complete submission, appeal advisor will deliver copies of the materials to the respondent.

**4. With the next 10 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 10 business days of having received the Notice of Appeal, the respondent will file a reply with the appeal advisor along with supporting documentation. \*

**5. Within the next 5 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 5 business days, the appeal advisor will review the submission and request clarification or additional material if apparently needed.

**6. Within the next 2 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 2 business days of receiving the complete submission, the appeal advisor will deliver copies to the appellant.

**7. Within the next 2 business days:**

Start date: \_\_\_\_\_

End date: \_\_\_\_\_

Within 2 business days, the appellant will review the respondent's submission and will decide whether to move forward to a hearing or not. No new submissions are accepted at this time unless deemed appropriate by the appeal advisor. \*

**8. Within the next 2 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 2 business days, if the matter is to proceed to a hearing, the appeal advisor will notify the chair of the appeal panel and provide all documents received by the appellant and the respondent.

**9. Within the next 10 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 10 business days, the chair of the appeal panel will convene the panel and hear the case.

**10. Within the next 2 business days:**

Start date: \_\_\_\_\_

Due date: \_\_\_\_\_

Within 2 business days, the participants will be advised of the outcome in writing. If the appeal is upheld, the appellant will be refunded the \$25.00 application fee.

**APPENDIX D**  
**Notice of Appeal**

**NOTE: Students must meet with the appeal advisor prior to submitting this form**

**APPELLANT**

**STEP 1 – to be completed by the appellant** (please use and attach extra paper as required):

Date of Issue of Appeal Form: \_\_\_\_\_ Date of Decision Being Appealed: \_\_\_\_\_

Student Name: \_\_\_\_\_ Student Number: \_\_\_\_\_

Current Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Preferred method of communication: \_\_\_\_\_

Course Name: \_\_\_\_\_

Assignment Number (if applicable): \_\_\_\_\_

Instructor Name (if applicable): \_\_\_\_\_

Policy Number (if applicable): \_\_\_\_\_

Name and position of decision-maker if not an instructor: \_\_\_\_\_

Please describe, in detail, the issue/decision you are appealing and the resolution you are proposing. Please use and attach extra paper as required:

Issue/decision:

Proposed Resolution:

Potential Witnesses:

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Other Participants:

Assistant (must be approved by the panel chair): \_\_\_\_\_

Support Person: \_\_\_\_\_

Student Advocate: \_\_\_\_\_

List of Documents Attached:

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(Please attach the Appeal Application Fee receipt)

Student Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Appeal Advisor Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**PLEASE RETURN THIS FORM AND DOCUMENTS TO THE APPEAL ADVISOR**

**RESPONDENT**

**STEP 2 – to be completed by the respondent** (please use and attach extra paper as required):

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Current Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Preferred method of communication: \_\_\_\_\_

Comments:

Potential Witnesses:

\_\_\_\_\_  
\_\_\_\_\_

Name of Assistant or Support Person Who Will Attend the Hearing with the Respondent:

\_\_\_\_\_

List of Documents Attached:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**PLEASE RETURN THIS FORM AND DOCUMENTS TO THE APPEAL ADVISOR**



Student Decision:

I \_\_\_\_\_ have reviewed the documents submitted by the respondent and have made the decision:

- to proceed with an appeal
- not to proceed

Student Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**PLEASE RETURN THIS FORM AND DOCUMENTS TO THE APPEAL ADVISOR**

Received at the Office of Student Affairs  
Appeal Advisor's signature: \_\_\_\_\_

Date: \_\_\_\_\_