



## Action Briefing Template

To: Senate

Date of Meeting: December 15, 2022

Submitted By: University Secretary

Responsible: Senate

Portfolio:

Subject: Approval of Senate Appeals Policy and Terms of Reference

For Approval

For Recommendation

For Discussion

### REQUESTED ACTION:

The Senate is being asked to approve the following amended Senate Appeal Policy and Terms of Reference.

These changes are consistent with regulation requirements and changes related to the transition of NOSM-to-NOSM University.

The documents have undergone a legal review and aligned with the UME appeals documents that are currently under review.

The Senate Appeal Committee will act as an ad hoc committee that will convene when an appeal has been filed.

### Action requested:

**MOTION - Moved by** \_\_\_\_\_ **Seconded by** \_\_\_\_\_

Moved that the Senate approve the amended Senate Appeals Policy as presented.

**MOTION - Moved by** \_\_\_\_\_ **Seconded by** \_\_\_\_\_

Moved that the Senate approve the amended Senate Appeal Terms of Reference as presented.

### Attachments

- Policy (clean and track change version)
- Terms of Reference (clean and track change version)



## SENATE APPEALS POLICY

Approval Authority: Senate

Established On: 2014 05 01

Amendments: 2018 05, 2022 12 15

Category: Academic

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### 1.0 POLICY STATEMENT

A Learner may, in accordance with this Senate Appeals Policy, appeal all promotion or withdrawal decisions and all findings of unprofessional behavior made by a NOSM University program or committee under the purview of the Senate to the Senate Appeal Committee (“**SAC**”).

Upon receipt of an appeal over which the SAC has jurisdiction (as set out in this Senate Appeals Policy and the Senate Appeals Committee Terms of Reference), the Chair of the SAC shall convene a panel (“**Senate Appeals Panel**” or “**Panel**”) to hear the appeal.

### 2.0 DEFINITIONS

For the purposes of this document, the following definitions will apply

“**Appellant**” means a learner who appeals a decision.

“**day**” or “**days**” means calendar days, and if a time limit referred to in this Policy ends on a day that is not a Working Day, then the end date of the time limit shall be the next Working Day.

“**Learner**” means any student enrolled in a NOSM University program governed by the Senate, including but not limited to MD students, postgraduate residents (trainees), dietetic interns, and graduate students.

“**Natural Justice**” refers to common law principles developed by the courts to help define the rules for decision-making. The two central components of natural justice are:

1) Procedural Fairness

The party(ies) affected by a decision may be entitled to receive:

- notice of the matter under consideration together with specifics of the matter being considered;
- an opportunity to make representations through a written and/or oral hearing; and
- reasons for the decision that is made.

2) The Absence of Bias

Decision-makers must be both actually unbiased and not appear to be biased to the reasonable person. A reasonable apprehension of bias arises where an informed person, viewing a matter realistically and practically - and having thought the matter through – does not believe that a decision-maker is capable of deciding the matter fairly.

“**NOSM University**” or the “**University**” refers to the Northern Ontario School of Medicine University

“**Program**” means any combination of courses and/or other study requirements that, upon successful completion, lead to the award of a formal qualification such as a university degree (MD or MMS) or health professional certification (CCFP, FRCPSC or RD).

“**Respondent**” is the person or persons who is responsible for responding to an appeal and will often be the person or persons who made the decision being appealed.

“**Working Day**” means a day in which the NOSM University offices are open for business from Monday to Friday and excludes statutory holidays and any other day that the University remains closed.

### 3.0 APPEAL PROCESS

#### 3.1 Grounds for an appeal to the Senate

An appeal will be considered only where an Appellant is able to establish that the decision under appeal:

- a. was made without jurisdiction.
- b. is not reasonably supported by the evidence that was or should have been before the decision maker; or
- c. was made in a manner that did not adhere to the principles of Natural Justice.

#### 3.2 Commencement of an appeal to the SAC

Prospective Appellants should consult the relevant Learner service office of their Program for regulations and policies governing appeal procedures.

An appeal to the SAC is commenced by completing all required sections of a *Request for Appeal to the Senate Appeals Committee Form* (“**Request for Appeal**”) and submitting this Request for Appeal to the Chair of the SAC c/o the University Secretary Senate within 10 Working Days of receipt of the notice at the previous level.

For greater certainty a completed Request for Appeal must include a succinct description of:

- a. the specific decision which is being appealed.
- b. the outcome being requested.
- c. the specific grounds on which the appeal is based, with specific reference to the grounds for appeal set out in section 3.1 above:
- d. a summary of the evidence (including a copy of relevant documents) in support of these grounds.
- e. if the grounds for appeal include that the previous decision maker did not consider evidence that was, or in the circumstances should reasonably have been, before the

decision maker, a summary of such evidence including the copies of the documents that constitute or corroborate such evidence, and in the case of new evidence an explanation of why such evidence was not available at the time of the original decision; and

- f. an indication as to whether the appellant and/or representative wishes to attend a hearing.

The Chair of the SAC and/or the University Secretary Senate will contact the Appellant within five (5) Working Days of receiving the Request for Appeal to confirm receipt of the appeal and raise any issues with respect to the completeness of Request for Appeal and/or timing of the appeal.

An appeal to the SAC may only be made:

- a. after a decision subject to the appellate jurisdiction of the SAC has been made and communicated to the Learner.
- b. after all procedures at the previous level(s) have been exhausted

### **3.3 Power not to advance appeal**

The Chair of SAC may decide not to advance the appeal if the Request for Appeal:

- a. is substantially incomplete or otherwise procedurally defective: or
- b. is received after the time limits set out in this Policy.

Before making a final decision not to advance the appeal, the Chair of SAC shall give the Appellant notice of their intention not to advance the appeal, including details of the reasons for proposing to do so. The Appellant may within 5 Working days of receipt of such notice, or such other time as the Chair agrees, (i) provide written submissions to the Chair of SAC in response to the reasons set out by the Chair of SAC for not advancing the appeal; or (ii) in the case of a deficiency under subsection (a), rectify the incompleteness or deficiency identified. If the Appellant has not met the time limits set out in this Policy, their submissions should address the factors set out in section 3.5 of this Policy.

If the Appellant does not file submissions or remedy the deficiency as provided or if, after reviewing any submissions made, the Chair of SAC considers it appropriate not to advance the appeal, they may do so and notify the Appellant of this decision. Decisions of the Chair of SAC not to advance an appeal are final and are not subject to further appeal.

### **3.4 Responding to an appeal**

Unless the Chair of SAC has decided not to proceed with an appeal pursuant to section 3.2, then upon receipt of a completed Request for Appeal the Chair of the SAC shall:

- a. convene a Senate Appeals Panel from among the members of the SAC as provided in the Senate Appeals Committee Terms of Reference to consider the appeal.
- b. provide the Respondent with a Copy of the Request for Appeal.

- c. request the Respondent to provide the Panel and the Appellant with a copy of the record of the decision (“**Record**”), which Record shall include:
  - I. The decision and the reasons for the decision being appealed.
  - II. If the decision being appealed was itself an appeal, the decision, and reasons for decision of the original decision maker, together with any record provided by such original decision maker.
  - III. All evidence and documents referred to in the decision and reasons for decision.; and
- d. invite the Respondent to make succinct submissions responding to the Request for Appeal, which responding submissions shall be provided to the Senate Appeals Panel and the Appellant within 10 Working Days of receipt of the invitation.

The Appellant may file a succinct reply to the Respondent’s submissions within 10 Working Days of receipt of the Respondent’s submissions. The Appellant is not required to deliver a reply and can accelerate the process by indicating before the 10 Working Days have elapsed that they do not intend to reply.

### **3.5 Time limits**

Time is of the essence in all SAC appeals and failure to adhere to a time limit set out in this Policy, or otherwise imposed by the Senate Appeals Panel, will mean that the party loses the right to file the document or take the action to which the time period relates, unless:

- a. A dispensation is obtained from the Chair of the Panel or the Chair of the SAC in advance of the expiration of the time limit: or
- b. The Chair of the Panel provides a dispensation after the expiration upon being satisfied that there is a reasonable cause for the delay. Reasonable causes for the delay include but are not limited to illness, accident, a serious personal matters or other circumstances which are beyond the control of the Appellant or Respondent.

Any notice or other documents sent via email in connection with a SAC appeal shall be deemed delivered on the day next following the date of the sending of the email.

### **3.6 Dismissal of appeal without an oral hearing**

The Senate Appeals Panel may, on its own motion, dismiss a case after a review of the materials filed by the Appellant and Respondent, and before an oral hearing if the Panel is satisfied that:

- a. it does not have jurisdiction; or

- b. the appeal is clearly without merit, is frivolous and vexatious, or was commenced in bad faith.

Before dismissing an appeal without a hearing, the Chair of the Panel shall notify the Appellant (with a copy to the Respondent) of its intention to do so. This notice shall set out the reasons why the Senate Appeals Panel is considering dismissing the appeal without a hearing and invite the Appellant to provide succinct written submissions about why the appeal should not be dismissed within 5 Working Days after receiving the Notice (with a copy to the Respondent).

The Panel shall notify the parties in writing of its decision on the motion to dismiss the appeal without a hearing.

Decisions of the Senate Appeals Panel to dismiss an appeal without a hearing are final and are not subject to further appeal.

### **3.7 Oral hearing procedures**

#### **Right to attend the hearing**

Both the Appellant and the Respondent have the right to appear before the Senate Appeals Panel to make oral submissions and, in cases where the Panel determines that it is necessary to hear evidence that was not considered by the previous decision maker, to present evidence and cross-examine as the case may be. In addition, the Panel, on its own initiative, may request that any party appear at the hearing.

#### **Hearings to be closed**

Senate Appeals deal with issues related to individual learners and are ordinarily conducted in a closed session and accommodated by video and/or telecommunications. The appeal hearing may be recorded, and notes may be taken by the Senate Appeals Panel, the Appellant and/or the Respondent. Documentation provided in the course of an appeal is treated as confidential subject to the Freedom of Information and Protection of Privacy Act.

#### **Notice of Oral Hearing**

Except where an appeal is dismissed without an oral hearing (section 3.5), an oral hearing shall be commenced as soon as possible following the completion of the written filings described in sections 3.2 and 3.3. An attempt shall be made to schedule the hearing at a time and place convenient for the parties and for the panel. However, the time of the commencement of the hearing is within the sole discretion of the Chair of the Panel.

The parties shall be given written notice of the hearing. In the case of Appellants, the notice shall be sent via electronic mail to an address provided by them for that purpose.

The written notice of hearing shall set out the time and place of the hearing, whether the Senate Appeals Panel will permit additional evidence to be presented at the oral hearing, and a preliminary order of proceeding at the hearing.

### **Representation at the Hearing**

Both the Appellant and the Respondent are entitled to the assistance of an advisor or any other person, including a legal representative, throughout the process. The cost of representation is born by the party and no costs will be awarded by the Panel against one party for representation of another party.

The Appellant and Respondent are each responsible for presenting their own case to the Senate Appeals Panel, except to the extent otherwise determined by the Chair in accordance with the principles of Natural Justice.

### **Order of Proceeding at the Hearing**

The following indicates the order of an appeal where the parties are present. The Committee may alter the order of the hearing in the interests of fairness.

(1) The Chair shall commence the proceeding by addressing the following, as necessary:

- a. Identify the members of the Panel and the parties
- b. Identify the nature of the appeal
- c. note for the record the documentary information submitted by the parties, and
- d. address any preliminary issues raised by the parties or questions to clarify issues from the Committee.

(2) The Appellant shall have the first opportunity to make their submissions.

If the Panel has indicated in the notice of oral hearing that it will permit evidence to be called at the hearing of the appeal, then the Appellant will begin by presenting the evidence the Appellant wishes to present to the Panel. If the evidence is presented through a witness, then immediately after the Appellant has examined the witness, the Respondent and then the Panel shall have an opportunity to ask the witness questions.

After the new evidence has been presented, or if no new evidence has been permitted by the Panel, the Appellant shall be given an opportunity to make succinct submissions to the Panel. It is intended that this be an opportunity for the



Appellant to elaborate on the submissions set out in the Request for Appeal and to answer any questions that the Panel may have.

- (3) The Respondent shall then have the opportunity to provide succinct submissions responding to the new evidence, if any, and the submissions of the Appellant.

In rare circumstances the Senate Appeals Panel may grant the Respondent the opportunity to present further evidence to respond to any new evidence that was presented by the Appellant at the hearing. Any such further evidence shall be presented before the Respondent makes their submissions. If such evidence is presented through a witness, then immediately after the Respondent has examined the witness the Appellant and then the Panel shall have the opportunity to ask the witness questions.

- (4) The Appellant shall then have an opportunity to reply to any new issues raised in the Respondent's presentation.

The Chair of the Panel shall have the right to alter this order and process where appropriate and in accordance with the principles of Natural Justice.

The Chair may grant a recess or adjournment at any time during the hearing to ensure a fair hearing.

Persons appearing before the Committee may be required to give evidence under affirmation or oath.

The Chair shall have the discretion to limit the testimony and questioning of witnesses to those matters the Chair considers relevant to the disposition of the case.

The parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the Committee.

The Committee shall have the power to request written or documentary evidence by the parties or by any other source.

The Chair has the power to rule on the admissibility of evidence.

### **3.8 Panel deliberation and decision**

At the conclusion of the hearing, the Senate Appeals Panel will deliberate in camera for the purpose of arriving at a decision.

Within five working days of the conclusion of the hearing, the Chair of the Panel shall provide a decision including written reasons for decision to the Appellant, the Respondent, the appropriate Associate or Vice Dean, and to other individuals as the Chair deems appropriate and/or necessary.

The Decision of the Senate Appeals Panel shall include the following, except where otherwise determined by the Chair in accordance with the principles of Natural Justice:

- a. the membership of the AC
- b. a summary of the background to the appeal
- c. a summary of the submissions
- d. the findings of fact (if any)
- e. the decision, recommendations (if any) and reasons for its decision.

The Decision of the Senate Appeals Panel shall be final and is not subject to further appeal.

In arriving at the Decision, the Senate Appeals Panel has the power and authority, in its discretion, to:

- a. Dismiss and thereby deny the appeal in whole or in part.
- b. Refer the matter back to the program with instructions for reconsideration; or
- c. Grant immediate relief.

In cases involving allegations of breach of academic dishonesty, professionalism or the penalty for such allegations, the Senate Appeals Panel may direct a hearing de novo either at the program level or before the Senate Appeals Committee according to the procedures for hearing allegations of breach of professionalism or academic dishonesty.

#### **4.0 INTERPRETATION**

Questions of interpretation or application of this policy or its procedures will be referred to the University Secretary, Governance Office – NOSM University [governance@nosm.ca](mailto:governance@nosm.ca).

## 5.0 RELATED DOCUMENTS

### University Documents and Information

- Senate Appeal Committee Terms of Reference
- Request for Appeal Form

## AUTHORITIES AND OFFICERS

The following is a list of authorities and officers for this policy:

- Approving Authority: Senate
- Responsible Officer: Senate Appeal Chair
- Procedural Authority: Senate Appeal Chair
- Procedural Officer: University Secretary

## Review and Revision History

**Review Period:** 3 years or as required

**Date for Next Review:** 2024 01

**Development History – this section will be deleted when the policy is finalized and ready for review/approval**

Date	Action
2013 10 25	Approval at Senate with effective date May 1, 2014
2014 04 15	Approved at Lakehead Senate on April 14, 2014 and Laurentian Senate on April 15, 2014
2018 05 14&15	Full legal opinion – Feb-March 2018 / April 5 – AC / April 26 @ JSC and May 14 & 15, 2018 Lakehead and Laurentian Senates
2022	Changes related to senate



# Senate Appeal Request Form

A request for a hearing must be made on the "Request Form" to the University Secretary. Please refer to the Senate Appeal Policy and Senate Appeal Committee Terms of Reference as well as any applicable program policy for specific timing and required documentation.

**All communication related to the appeal shall be sent to the NOSM University email account unless otherwise specified in writing to the appropriate appeals body.**

## CONTACT INFORMATION

NAME [FULL]		
PROGRAM/YEAR		
NOSM U EMAIL		
LOCAL ADDRESS		
TELEPHONE NUMBER	HOME	
	CELL	
OTHER EMAIL		
<b>Decision being appealed</b>	Date of Decision	

## NATURE OF APPEAL - I make application to request the appeal of an academic decision: [choose one of the following]

- Promotion and/or withdrawal from the Program**  
The Learner has formally requested a reappraisal of a decision made regarding promotion or withdrawal from the Program and is not accepting of the decision at the previous level.
- Postgraduate Appeal**  
The Learner has formally requested a reappraisal of a decision made by the Postgraduate Medical Education Committee (PGEC) and is not accepting the decision at the previous level.
- Professionalism**  
The Learner has formally requested a reappraisal of a decision made regarding Professionalism and is not accepting of the decision at the previous level.

## Grounds for Appeal

- The previous body did not have jurisdiction to make the decision that it did.
- The decision of the previous body is not supported by the evidence that was or should have been before the decision maker.; or
- The previous body did not adhere to the principles of Natural Justice.

## Documentation

The following documentation **must be appended** to this form:

1. A copy of the decision being appealed to the Senate Appeals Committee.
2. A statement in typed format succinctly setting out:
  - a. The outcome requested on the appeal:
  - b. The specific grounds on which the appeal is being made.

Please note that grounds for appeal are limited to the following as per section 3.1 of the Senate Appeals Policy and the specific grounds must be set out in the statement with reference to the relevant ground(s):

An appeal will be considered only where an Appellant is able to establish that the decision under appeal:

- a. was made without jurisdiction.
  - b. is not reasonably supported by the evidence that was or should have been before the decision maker; or
  - c. was made in a manner that did not adhere to the principles of Natural Justice.
- c. A summary of the evidence and submissions in support of the grounds. Please note:

If one of the grounds for appeal is that the previous body did not consider evidence that should reasonably have been before the decision maker (per Senate Appeals Policy section 3.1 (b)), the statement should include a succinct description of any such additional evidence. If you wish to obtain the permission of the Panel to have a witness provide evidence that should reasonably have been before the previous body, your statement should identify the witness(es), include a summary of what you anticipate they will say and an explanation of why you believe that it is necessary for the Panel to hear such evidence.

If the time limit for commencing the appeal has not been met, the reason that such time limit has been missed and whether there has been reasonable cause for delay as described in section 3.5 of the Senate Appeals Policy.

3. Documentary evidence to support your appeal (e.g., if the appeal is based on procedural irregularity, include the text of the relevant procedural regulations, if any, that were allegedly violated or are otherwise deemed applicable to the case).

Fill out the following if you have retained a lawyer or if someone else will be present with you:

Name:	Relationship:
Phone Number:	Email Address:

**Applicant's declaration**

I have read and understood the Senate Appeal Policy and Senate Appeal Committee Terms of Reference as well as any applicable program policy for NOSM University.

I certify that the documents I have submitted are authentic and that the statements I have made are true. I acknowledge that the submission of false documents or statements is a violation of the University's academic regulations.

I understand that other than material presented by me or the respondent and any relevant academic records, no other materials will be considered by the Committee/Panel in this appeal without leave of the Senate Appeals Committee/Panel Chair or on the consent of both parties. I also understand that the findings of the Senate Appeals Committee/Panel are final in this matter.

<b>Name (typed/signature)</b>	Dated
This form will not be processed unless it is signed and dated, and all information is submitted.	

Submit your completed Request for Appeal form together with supporting documentation to the Office of the University Secretary [governance@nosm.ca](mailto:governance@nosm.ca).



# POLICY

## SENATE APPEALS POLICY

Approval Authority: Senate

Established On: 2014 05 01

Amendments: 2018 05

Category: **A**

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### 1.0 POLICY STATEMENT

~~A Learner may, in accordance with this Senate Appeals Policy, appeal all promotion or withdrawal decisions and all findings of professional behavior made by a NOSM University program or committee under the purview of the Senate to the Senate Appeal Committee ("SAC") formed from among the membership of a Committee Panel in accordance with the Senate Appeal Committee Terms of Reference will hear any appeal based on an academic decision, rendered by any NOSM University program or committee under the purview of the Senate.~~

~~A Learner may appeal to the Senate Appeal Committee if the matter relates directly to the course of study/training within the Program, and falls into one of the following categories:~~

- ~~1. Promotion and/or withdrawal from the Program—formally request a reappraisal of a decision made regarding promotion or withdrawal from a Program at the previous level.~~
- ~~2. Postgraduate Appeal—formal request a reappraisal of a decision made by the Postgraduate Medical Education Committee (PGEC) at the previous level.~~
- ~~3. Professionalism—formal request for reappraisal of a decision made regarding Professionalism at the previous level.~~

~~Upon receipt of an appeal over which the SAC has jurisdiction (as set out in this Senate Appeals Policy and the Senate Appeals Committee Terms of Reference), the Chair of the SAC shall convene a panel to hear the appeal.~~

### 2.0 DEFINITIONS

For the purposes of this document, the following definitions will apply

~~"NOSM University" or the "University" refers to the Northern Ontario School of Medicine University~~

~~"Appellant" is a learner who appeals a decision.~~

“day” or “days” means calendar days and if a time limit referred to in this Policy ends on a day that is not a Working Day, then the end date of the time limit shall be the next Working Day.

“Learner” means any student enrolled in a NOSM University program governed by the Senate, which includes but is not limited to MD student, postgraduate resident (trainees), dietetic intern, and graduate studies.

“Natural Justice” refers to ~~common law~~ general principles developed ~~by the courts under English law in the 19th century to help~~ define the rules for decision-making. The two central components of natural justice are:

~~The two basic components of natural justice are:~~

1) Procedural Fairness

The party who will be affected by a decision may be entitled to receive

- notice of the matter under consideration ~~together with specifics alongside the specific aspects~~ of the matter being considered;
- an opportunity to make representations through a written or oral hearing; and
- reasons for the decision that is made.

2) The Absence of Bias

Decision-makers must ~~both-not only~~ be unbiased ~~andbut must ensure that they would~~ not appear to be biased to the reasonable person. A reasonable apprehension of bias arises where an informed person, viewing a matter realistically and practically - and having thought the matter through – does not believe that a decision-maker is capable of deciding the matter fairly.

~~Steps taken by decision makers to remain unbiased include:~~

- ~~Understanding what bias is (e.g., having a firmly held, favourable or negative opinion about a matter or an individual). If one cannot be objective about a matter that is within one’s purview, then one you should remove oneself from the decision-making process.~~
- ~~In a committee of decision makers, each member must feel free to make his or her own decision. Therefore, each member of the committee must be free of influence from other committee members, from outside third parties, or from the influence of those who have designated them as decision makers.~~
- ~~Sometimes bias is alleged because it is believed the decision maker knows too much about the matter under scrutiny. A well informed decision maker is not biased if she or he has an open mind and is open to persuasion by the information provided through the decision-making process.~~

“NOSM University” or the “University” refers to the Northern Ontario School of Medicine University



~~“Notice” means any notice to be sent by any party under this policy to another party. Any notice duly sent via email manner to a recipient’s known email address shall be deemed delivered on the day next following the date of the sending of the email.~~

“Program” means any combination of courses and/or other study requirements that, upon successful completion, lead to the award of a formal qualification such as a university degree (MD or MMS) or health professional certification (CCFP, FRCPSC or RD).

~~“Respondent” is the a person or persons who is responsible for responding to an appeal and will often be the person or persons who made the decision being appealed. respond or make a reply to a claim or allegation.~~

"Working Day" means a day in which the NOSM University offices are open for business from Monday to Friday and excludes statutory holidays and any other day that the University remains closed.

### 3.0 POLICY TERMS

#### 3.1 Grounds for an Appeal to the Senate

An appeal will be considered only where ~~an Appellant-Learner~~ is able to establish that the decision under appeal:

~~a. was made without jurisdiction;~~

~~a-b. the is not reasonably supported by the evidence that was or should have been before the decision maker, re is evidence of a factual error or procedural irregularity in the previous level of decision-making; or~~

~~b-c. was made in a manner that the previous body did not adhere to the principles of Natural Justice.~~

~~The decision under appeal was made without jurisdiction; or~~

~~An appeal may not be filed with the Committee until all procedures at the previous level have been exhausted. Learners should consult the relevant Learner service office of their program for regulations and policies governing petition and appeal procedures.~~

#### 3.2 Commencement of an ~~Written Appeal to the SAC~~ an Appeal Committee

An appeal to the ~~SAC~~ Committee may only be made:

~~a. after a decision subject to the appellate jurisdiction of the SAC ~~Committee Panel~~ has been made and communicated to the Learner;:-~~

~~b. after all procedures at the previous level(s) have been exhausted. A record of the appealed decision must be included in any appeal.~~

Prospective Appellants should consult the relevant Learner service office of their program for regulations and policies governing appeal procedures.

An appeal to the SAC is commenced ~~written submission must be made by~~ completing all required sections of a “Request for Appeal to the Senate Appeals Committee Form” (“Request for Appeal”); and submitting this ~~eRequest for Appeal to~~ the Chair of the ~~SAC Committee Panel~~ c/o the University Secretary Senate within 10 ~~W~~working ~~d~~Days of receipt of the notice at the previous level. ~~[insert appeal email address]~~

For greater certainty a completed Request for Appeal must include a succinct description of:

- a. ~~the specific decision which is being appealed;~~
- b. ~~the outcome being requested;~~
- c. ~~the specific grounds on which the appeal is based, with specific reference to the grounds for appeal set out in section 3.1 above;~~
- d. ~~a summary of the evidence (including a copy of relevant documents) in support of these grounds;~~
- e. ~~if the grounds for appeal include that the previous decision maker ignored evidence that was or in the circumstances should reasonably have been before the decision maker, a summary of such evidence including the copies of the documents that constitute or corroborate such evidence, and in the case of new evidence an explanation of why such evidence was not available at the time of the original decision; and~~
- f. ~~an indication as to whether the appellant and/or representative wishes to attend a hearing.~~

The Chair of the ~~SAC Committee~~ and/or the University Secretary Senate will contact the ~~A~~appellant within five (5) ~~W~~working ~~D~~Days of receiving the ~~aRequest for Appeal~~ to confirm receipt of the appeal and ~~raise any issues with respect to the completeness of Request for Appeal~~~~provide additional information.~~

The Chair of SAC may decide not to advance the appeal if the Request for Appeal:

- a. ~~is substantially incomplete or otherwise procedurally defective; or~~
- b. ~~is received after the time limits set out in this Policy.~~

~~Before making a final decision not to advance the appeal, the Chair of SAC shall give the Appellant notice of their intention not to advance the appeal, including details of the reasons for proposing to do so. The Appellant may within 5 working days of receipt of such notice, or such other time as the Chair agrees, (i) provide written submissions to the Chair of SAC in respect of the reasons set out by the Chair of SAC for not advancing the appeal; or (ii) in the case of a deficiency under subsection (a), rectify the incompleteness or deficiency identified. If the Appellant has not met the time limits set out in this Policy then their submissions should address the factors set out in section 3.5 of this Policy.~~

~~If the Appellant does not file submissions or remedy the deficiency as provided or if, after reviewing any submissions made, the Chair of SAC considers it appropriate not to advance the appeal, they may do so and notify the Appellant of this decision. Decisions of the Chair of SAC not to advance an appeal are final and are not subject to further appeal.~~

### 3.3 ~~Response to Contents of~~ Appeal

No application for appeal to the Committee shall be considered unless it includes a succinct statement of the following:

- a. the specific decision which is being appealed (with documentation);
- b. the outcome being requested;
- c. the specific grounds on which the appeal is made, including a brief (1-2 sentence) synopsis of each grounds;
- d. a summary of the evidence in support of these grounds;
- e. an indication as to whether the appellant and/or representative wishes to attend a hearing; and
- f. if the grounds for appeal includes new evidence, the original documents that constitute or corroborate the new evidence, along with a brief (1-2 sentence) statement about each piece of new evidence, identifying its relevance and why it was not available prior to the original decision.

Unless the Chair of SAC has decided not to proceed with an appeal pursuant to section 3.2, then upon receipt of a completed Request for Appeal the Chair of the SAC shall :

- (a) convene a Panel from among the members of the SAC ("**Senate Appeals Panel**") as provided in the Senate Appeals Committee Terms of Reference to consider the appeal;
- (b) provide the Respondent with a Copy of the Request for Appeal;
- (c) request the Respondent to provide the Senate Appeals Panel and the Appellant with a copy of the record of the decision ("**Record**"), which Record shall include:
  - I. The Decision and the Reasons for the Decision;
  - II. If the decision being appealed was itself an appeal, the decision and reasons for decision of the original decision maker, together with any record provided by such original decision maker;
  - III. All evidence and documents referred to in the Decision and Reasons for Decision.
- (d) Invite the Respondent to make succinct submissions responding to the appeal, which responding submissions shall be provided to the Senate Appeals Panel and the Appellant within 10 Working Days of receipt of the invitation.

The Committee shall request from the program all documents that were considered at the previous level including the text of the decision being appealed and any response to the appeal which the program may wish to make.

The program shall also indicate if it wishes to be represented. Along with the appellant's submission, this will constitute the Committee file.

The Appellant may file a succinct reply to the Respondent's submissions within 10 Working Days of receipt of the Respondent's submissions. will be given 15 days to review the Committee file and to respond to the program's submission. Any response will become part of the Committee file. The Appellant is not required to deliver a reply/respond and can accelerate the process by indicating before the 105-Working Days have elapsed that they do not intend to reply, if no response is to be expected.

### 3.4 Time Limits

Time is of the essence in all SAC appeals and failure to adhere to a time limit set out in this Policy, or otherwise imposed by the Senate Appeals Panel, will mean that the party loses the right to file the document or take the action to which the time period relates unless:

(a) A dispensation is obtained from the Chair of the Senate Appeal Panel or the Chair of the SAC in advance of the expiration of the time limit: or

(b) The Chair of the Senate Appeal Panel provides a dispensation after the expiration upon being satisfied that there is a reasonable cause for the delay. Reasonable causes for the delay include but are not limited to illness, accident, a serious personal matters or other circumstances which are beyond the control of the Appellant or Respondent. If written submissions to an AC are incomplete or not made within this period of 10 working days in the absence of reasonable cause, the appealed decision will become final, and binding and no further appeals shall be considered.

~~A submission that is outside the established time limits must include written reasons for the delay.~~

~~Reasonable cause for delay of proceedings may be found by the Chair of the Committee to exist if the delay resulted from incidents including but not limited to illness, accident, serious personal matters, or other circumstances which are beyond the control of a Learner, trainee or faculty member and which, in the opinion of the Chair, are a substantial contributing factor to the delay.~~

### NEW

#### **Decision Not to Advance the Proceeding**

The Committee Chair may decide not to advance the proceeding if:

- ~~a. the Notice of Appeal is substantially incomplete, defective, or inaccurate, or the documents provided are substantially incomplete.~~
- ~~b. the documents are received after the deadline for commencing the proceeding has passed and a request to the Chair for an extension of time has not been filed.~~
- ~~c. there is some other substantial technical defect in the proceeding as filed.~~

~~The Chair shall give the party who filed the documents relating to a proceeding notice of its decision not to advance the proceeding and shall set out in the notice the reasons for the decision and the requirements for re-advancing the proceeding. Only one such notice shall be given. A party who receives a notice from the Chair under subsection (b) must rectify the defect or deficiency within 5 days from the date of the notice or, with the consent of the Chair, within a reasonable time.~~

### 3.5 Dismissal of Appeal Without a Hearing

The ~~Senate Appeals Panel~~Committee may, on its own motion, dismiss a case after a review of the ~~materials filed by the Appellant and Respondent, and before an oral hearing documents filed and without hearing from the parties~~ if ~~the Panel determines that~~:

~~(a) a) the Committee determines that~~ it does not have jurisdiction; or

~~(a)(b) \_\_\_\_\_~~ the appeal is clearly without merit, is frivolous and vexatious, or was commenced in bad faith.

~~b) the Committee meets in camera and determines that the appeal is clearly without merit or commenced in bad faith.~~

~~Before dismissing an appeal without a hearing the Chair of the Senate Appeals Panel shall notify the Appellant (with a copy to the Respondent) of its intention to do so. This notice shall set out the reasons why the Senate Appeals Panel is considering dismissing the appeal without a hearing and invite the Appellant to provide succinct written submissions about why the appeal should not be dismissed within 5 Working Days after receiving the Notice (with a copy to the Respondent).~~

~~The Committee shall notify the parties in writing of its decision, on the motion to dismiss the appeal without a hearing, from the parties, and it shall invite and consider a written request for reconsideration.~~

~~Decisions of the Senate Appeals Panel to dismiss an appeal without a hearing are final and are not subject to further appeal. Reconsideration is discretionary. It is not an appeal or an opportunity for a party to change the way it presented its case. The Committee will not entertain requests to reconsider a matter that has already been reconsidered, and decisions on a reconsideration are not appealable.~~

### 3.6 Hearing Procedures

~~The determination of the composition of a Senate Appeal Committee is outlined in the Senate Appeal Committee Terms of Reference.~~

#### Right to Attend Hearing

Both the ~~a)Appellant and the R~~espondent ~~and/or their representative(s)~~ have the right to appear before the ~~Senate Appeals Panel~~Committee to ~~make oral submissions, and in cases where the Panel determines that it is necessary to hear evidence that was not considered by the previous decision maker, to present evidence and cross-examine as the case may be. present argument and evidence and to examine and cross-examine witnesses. In addition, t~~The ~~Panel~~Committee, on its own initiative, may request that ~~any~~ parties to appear at the hearing.

#### Hearings to be Closed

~~Senate Appeals~~A hearing of the Committee deals with issues related to individual learners and ~~are~~ ordinarily ~~is conducted~~ordinarily conducted in a closed session and accommodated by video and/or telecommunications. The appeal hearing may be recorded, and notes may be taken ~~by the Senate~~

Appeals Panel, the Appellant and/or the Respondent. Documentation provided in the course of an appeal is treated as confidential subject to the Freedom of Information and Protection of Privacy Act.

#### Notice of Oral Hearing

Except where an appeal is dismissed without an oral hearing (section 3.5), aAn oral hearing shall be commenced as soon as possible following the appellant's completion of the written filings described in sections 3.2 and 3.3~~response to the Committee file~~. An attempt shall be made to schedule the hearing at a time and place convenient for the parties and for the panel. However, any party whose reasons for absence are not considered valid by the Chair of the Senate Appeals Panel~~Committee Chair~~, or whose absence may cause unreasonable delay, shall be notified that the panel will proceed in that party's absence.

The parties shall be given ~~reasonable~~ written notice of the time of the written notice of hearing. In the case of Appellants~~the student~~, the notice shall be sent via electronic mail to an address provided by them for that purpose.

The written notice of hearing shall set out the time and place of the hearing, whether the Senate Appeals Panel will permit additional evidence to be presented at the oral hearing, and a preliminary order of proceeding at the Hearing.

#### Representation at the Hearing

Both the Appellant and the Respondent~~The parties~~ are entitled to the assistance of an advisor or any other person, including a legal representative, throughout the process. The cost of representation is born by the party and no costs will be awarded by the Committee Panel against one party for representation of another party.

The Appellant and Respondent are each~~parties are~~ responsible for presenting their own case to Senate Appeals Panel~~the Committee~~, except to the extent otherwise determined by the Chair in accordance with the principles of Natural Justice. ~~The Senate Appeal Committee shall have the right to seek for the legal counsel during any portion of the proceedings.~~

#### Order of Proceeding at the Hearing

The following indicates the order of an appeal where the parties are present. The Committee may alter the order of the hearing in the interests of fairness, ~~to any or all of the parties.~~

(1) is the Chair shall commence the proceeding by addressing one or more of the following:

- a. Identify the members of the committee and the parties
- b. Identify the nature of the appeal
- c. noting for the record the documentary information submitted by the parties, and
- d. addressing any preliminary issues raised by the parties or questions to clarify issues from the Committee.

(2) The Appellant shall have the first opportunity to make their submissions.

If the Senate Appeals Panel has indicated in the notice of oral hearing that it will permit evidence to be called at the hearing of the appeal, then the Appellant will begin by presenting the evidence the Appellant wishes to present to the Panel. If the evidence is presented through a witness, then immediately after the Appellant has examined the witness, the Respondent and then the Panel shall have an opportunity to ask the witness questions.

After the new evidence has been presented, or if no new evidence has been permitted by the Panel, the Appellant shall be given an opportunity to make succinct submissions to the panel. It is intended that this is an opportunity for the Appellant to elaborate on the submissions set out in the Request for Appeal and to answer any questions that the Panel may have.

~~be the first to present their position and any documentary evidence or testimony in support of their case.~~

~~Questioning of the Appellant and their witnesses, if any, by the Respondent and/or by the panel occurs at the close of each person's testimony except that the panel may seek clarification during the course of testimony.~~

(3) The Respondent shall then have the opportunity to provide succinct their submissions responding to the new evidence, if any, and the submissions of the Appellant, reply including the factual support of the case through documentary evidence or testimony of the respondent or witnesses.

In rare circumstances the Senate Appeals Panel may grant the Respondent the opportunity to present further evidence to respond to evidence that was presented by the Appellant at the hearing. Any such further evidence shall be presented before the Respondent makes their submissions. If such evidence is presented through a witness, then immediately after the Respondent has examined the witness the Appellant and then the Panel shall have the opportunity to ask the witness questions. Questioning of the Respondent and their witnesses by the Appellant and/or by the panel occurs at the close of each person's testimony except that the panel may seek clarification during the course of testimony.

(4) The Appellant shall then have an opportunity to reply to any new ~~The Appellant and their witnesses shall be allowed to offer testimony or other evidence in reply to issues raised in the Respondent's presentation.~~

After the testimony of each witness, the committee may, in addition to asking questions of the witness as permitted above, request copies of such documents mentioned in testimony as the committee in its discretion sees fit.

The parties are entitled to make closing arguments and to briefly summarize the main points in the following order:

- a. the Respondent
- b. the Appellant

The Chair of the Panel shall have the right to alter this order and process where determined appropriate and in accordance with the principles of Natural Justice.

The Chair may consider and grant a recess or adjournment at any time during the hearing to ensure a fair hearing.

Persons appearing before the Committee may be required to give evidence under affirmation or oath.

The Chair shall have the discretion to limit the testimony and questioning of witnesses to those matters the Chair considers relevant to the disposition of the case.

The parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the Committee.

The Committee shall have the power to request written or documentary evidence by the parties or by any other source.

The Chair has the power to rule on the admissibility of evidence.

#### **ROLES AND RESPONSIBILITIES**

##### **5.1 Conflict of Interest**

The issue of impartiality during the Appeal process is considered crucial. Therefore, a member of the Committee Panel will be required to abstain from sitting on an AC or otherwise influencing any appeal hearing(s) in which that member is determined to have a conflict of interest. Examples of circumstances where a conflict of interest may arise include but are not limited to:

- (1) where a member has any emotional or financial interest in the outcome of the appeal hearing;
- (2) where a member has any affiliation with either party of such a nature or proximity as to give rise to a reasonable apprehension of bias; and



~~(3) where a member has been privy to information about an appeal obtained by means other than through the presentation of evidence at the appeal hearing or in documents filed by the parties. Should a Committee member discover that he or she has a conflict of interest, the member must inform the Chair at the earliest opportunity. Should the Chair discover that he or she has a conflict of interest, the Chair must inform the other members of the Committee at the earliest opportunity.~~

#### File Disposition

~~All documentation accompanying an appeal remains in the appellant's file within the [where University Secretary or Registrar] and is not used for any purpose beyond the appeal. In accordance with the University's Records Management Policy, the request to appeal and the committee's decision letter are kept permanently, and all other records held by the University Secretary or designate will be destroyed 10 years after the decision.~~

#### 4.05-2 Deliberation and Committee Decision

At the conclusion of the hearing, the Senate Appeals Panel ~~Committee~~ will deliberate in camera for the purpose of arriving at a decision.

Within five (5) working days of the conclusion of the hearing, the Chair shall provide a Decision including written reasons ~~for part of the~~ decision to the Appellant, the Respondent, the appropriate Associate or Vice Dean, and to other individuals as the Chair deems appropriate and/or necessary.

The Decision ~~written report~~ of the Senate Appeals Panel ~~shall~~ ~~Committee must~~ include the following, except where otherwise determined by the Chair in accordance with the principles of Natural Justice:

- a. the membership of the AC
- b. a summary of the background to the appeal
- c. a summary of the submissions
- d. the findings of fact (if any)
- e. the decision, recommendations (if any) and reasons for its decision.

~~The Decision of the Senate Appeals Panel Any decision made by the AC with regards to an appeal related to a Program under the purview of the Senate shall be final and is not subject to further appeal~~ binding.

Commented [FR1]: Consider moving this to the Terms of Reference.

Commented [GK2R1]: Moved to ToR

~~In arriving at the Decision the Senate Appeals Panel has the power and authority, at its discretion to:~~

- ~~a. The Committee may decide to Dismiss and thereby deny the appeal in whole or in part;~~
- ~~b. to refer the matter back to the program with instructions for reconsideration; on the basis of new evidence or reconsideration using proper procedure, or~~
- ~~c. to grant immediate relief.~~

In cases involving allegations of breach of academic honesty, professionalism or the penalty for such breach, the Senate Appeals Panel Committee may direct a hearing de novo either at the program level or before the Senate Appeals Committee according to the procedures for hearing allegations of breach of professionalism or academic dishonesty.

~~Where a new hearing is ordered in the case of breach of academic honesty, the matter proceeds as if the charge had just been laid and can be heard either at the program level or before a panel of the Committee.~~

~~Where a matter is referred back to a program for reconsideration, any subsequent appeal to the Committee will only be allowed on the same grounds as those set out under Grounds for Appeal above.~~

~~Before pursuing an application for review with respect to any decisions made under this policy or under any other related policies and procedures approved by the NOSM University, Senate or its subcommittees ("internal processes"), a Learner must first exhaust all adequate alternative remedies available under the internal processes.~~

#### 4.0 INTERPRETATION

Questions of interpretation or application of this policy or its procedures will be referred to the Governance Office – Office of the Dean – NOSM University [governance@nosm.ca](mailto:governance@nosm.ca)

#### 5.0 RELATED DOCUMENTS

University Documents and Information

- Request for Appeal Form

- [Appeal Process Overview Chart](#)

#### **AUTHORITIES AND OFFICERS**

The following is a list of authorities and officers for this policy:

- Approving Authority:
- Responsible Officer:
- Procedural Authority:
- Procedural Officer:

#### **Review and Revision History**

**Review Period:** 5 years or as required

**Date for Next Review:** 2023 05

**Development History – this section will be deleted when the policy is finalized and ready for review/approval**

Date	Action
2013 10 25	Approval at Senate with effective date May 1, 2014
2014 04 15	Approved at Lakehead Senate on April 14, 2014 and Laurentian Senate on April 15, 2014
2018 05 14&15	Full legal opinion – Feb-March 2018 / April 5 – AC / April 26 @ JSC and May 14 & 15, 2018 Lakehead and Laurentian Senates
2022	Changes related to senate

## Senate Appeal Committee

Approval Authority: Senate

Established: 2006 06 15

Amendments: 2014 01 30, 2018 04 05, 2022 12 15

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### Function

The Senate Appeal Committee hears appeals based on academic decisions, relating to a promotion or withdrawal decision, or findings of unprofessional behaviour, rendered by any NOSM University program or committee under the purview of Senate.

All defined terms in this document shall, unless otherwise indicated, have the same meaning as in the Senate Appeals Policy.

The Senate Appeal Committee is to:

- be an impartial adjudicative appeal body for learners on academic matters, whose decisions are final and without further appeal;
- hear appeals, through Senate Appeal Panels, only after other appeal processes have been exhausted and will not hear matters that are concurrently before other University bodies;
- report on decisions of the Panels to the Senate (on an annual basis, or whenever the Senate requests a report) and to other appropriate bodies (in all cases personal identifying Appellant shall be withheld) for informational purposes and, in the case of reports to the Senate, for the purpose of receiving any feedback the Senate considers appropriate;
- prepare for Senate approval and thereafter operate under the Senate Academic Appeals Policy, including the detailed procedures thereunder as necessary and appropriate; and
- where appropriate, draw to the attention of relevant University bodies or individuals any regulations, policies or practices that are giving rise to learner appeals so that they may be examined.

\* Any relief offered to learners in programs leading to a regulated profession may be constrained by professional accrediting bodies or placement agencies. The SAC and the Panels may not grant relief that would contravene or undermine externally determined standards or requirements that apply to learners.

### Membership

The SAC shall be composed of the following individuals:

- 7 faculty (representation across the University\*) of which 3 shall be members of Senate and 4 at large.
- 1 learner appointed from each NOSM program<sup>1</sup> or subset of NOSM University programs
- University Secretary (Senate) (non-voting)

SAC Members shall be appointed by Senate on the recommendation of the Senate Executive Committee and in accordance with procedures determined by Senate.

The SAC Chair and Vice-Chair shall be chosen by Senate from among the faculty members on the SAC. The terms of the SAC Chair and Vice-Chair will be two academic years, running from July 1 to June 30. Both the SAC Chair and Vice-Chair are eligible for appointment to multiple successive terms. In addition, the Senate may extend the terms of the Chair and/or Vice Chair for any period it deems advisable in the circumstances. To maintain continuity, the Chair will normally be succeeded by the Vice-Chair then in office.

Appeals shall be heard by a Panel of Committee Members chosen by the SAC Chair. Each Panel shall be made up of:

- The SAC Chair or in the event of a conflict or otherwise at the SAC Chair's discretion, a designate, who shall serve as Panel Chair.
- Four (4) additional members of the SAC selected by the SAC Chair as follows:
  - One (1) faculty member from the Senate
  - Two (2) faculty member at large
  - One (1) learner from a program other than the one in which the appeal is being heard.

A Panel is intended to provide a balanced consideration of the appeal. Where possible, it should be representative of the whole University, including this diverse nature of the University. The Chair may take action to ensure this is applied.

### **Resource Individuals**

The following shall serve as ex officio non-voting resource members of the SAC and at the discretion of the SAC Chair, one or more may serve as non-voting resource members of a Panel:

- Associate Dean, Undergraduate Medical Education, non-voting, and resource only
- Associate Dean, Postgraduate Medical Education, non-voting, and resource only
- Assistant Dean, Learner Affairs, non-voting and resource only
- Program Manager, Northern Ontario Dietetic Internship Program (NODIP), non-voting and resource only
- Director of Planning and Risk, non-voting, and resource only

### **Terms of Appointment**

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<sup>1</sup> NOSM Policy Regarding Academic Appeals Program Definition: "Program" means any combination of courses and/or other study requirements that, upon successful completion, lead to the award of a formal qualification such as a university degree (MD or MMS) or health professional certification (CCFP, FRCPSC or RD).

Voting members of the SAC shall be appointed for a term of two academic years, running from July 1 to June 30. Voting members are eligible for appointment to multiple successive terms. In addition, the Senate may extend the term of any voting member for any period it deems advisable in the circumstances.

The term of any member which would otherwise expire during the time that they are serving on a Panel, will automatically be extended to allow the member to complete the appeal the Panel is considering.

### **Conflict of Interest**

1. Members of the SAC are responsible for recognizing and avoiding circumstances that may give rise to, or give the appearance of giving rise to, a conflict of interest between a member's direct or indirect interests and the member's obligations in conducting the business of the SAC.
2. Members who have been asked to serve on a Panel must identify and disclose to the SAC Chair (or in the case of a conflict on the part of the SAC Chair to the Vice-Chair) any direct or indirect conflict of interest relating to a matter being appealed at the earliest possible time.
3. In appropriate circumstances, as determined by the SAC Chair or a Panel Chair as the case may be, a member of the SAC or a Panel may be required to abstain from proceedings and discussions on an identified matter being appealed and shall not attempt in any way to influence the voting on such matter.
4. Prior to considering the merits of any appeal, the Panel Chair shall raise the question of whether any member of the Panel has a conflict of interest or an appearance of conflict of interest with the Panel members and, in consultation with the SAC Chair or the SAC Vice Chair if the Chair has a conflict, shall determine how the matter should proceed.

### **SAC Meetings and Panel Deliberations**

1. The SAC shall meet as a whole to consider general matters such as planning, policy review and reporting obligations as required by the SAC Chair or as directed by Senate.
2. Panels shall meet as required after they have been constituted.
3. For the purpose of a final decision on the hearing of an appeal by a Panel:
  - (a) Quorum shall be all the members of the Panel;
  - (b) A majority of votes is required for an appeal to be granted;

### **Confidentiality**

1. Much of the information obtained by members of the SAC or of a Panel, as the case may be, in connection with the business and proceedings of the SAC or of a Panel is confidential. SAC and Panel members are required to maintain the confidentiality of all such information and not to use the information for any purpose other than the business of the SAC. Confidential information includes but is not limited to:
  - a. Information concerning the personal affairs of learners;
  - b. Information concerning the business, operations and governance of the University
  - c. Information concerning the personal and professional affairs of staff and faculty.

- d. For greater certainty all information obtained by a member of the SAC during the course of their service on the SAC shall be treated as confidential. All questions about the disclosure of information obtained by a member of the SAC during the course of their service on the SAC must be raised with the SAC Chair who shall have final authority on the question of disclosure.
  - e. The obligation of SAC and Panel members to maintain confidentiality shall continue after the conclusion of the member's tenure on SAC or any Panel.
2. Members of SAC and all Panels may only disclose confidential information where such disclosure is necessary for the fulfillment of SAC's or a Panel's obligations, or where otherwise required by law and then only to the extent necessary or required.
  3. Meetings of SAC and deliberations of a Panel are closed to the public.
  4. All communications about the work of the SAC shall be made by the SAC Chair.
  5. All communications about the work of a Panel shall be made by the Panel Chair.
  6. The SAC Chair is responsible for ensuring that each SAC member is aware of their confidentiality obligations.

A breach of confidentiality obligations will be considered to be misconduct of the highest order and in addition to any other sanction available to the University may result in the immediate removal of the member from the SAC.

**Related Policies/Documents**

- Related Program Appeals Policies
- Senate Academic Appeal Policy
- Request for Appeal Form
- Appeal Process Overview Chart



Northern Ontario  
School of Medicine  
Ecole de médecine  
du Nord de l'Ontario  
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## Academic Council/Senate Appeal Committee Terms of Reference

Academic Council/Senate Appeal Committee Terms of Reference					
Approved By:	<u>Academic Council/Senate</u>				
Approval Date:	<u>2018-04-05</u>	Effective Date:	<u>2006-06-15</u>	Review Date:	3 years
Responsible Portfolio/Unit/Committee:	<u>Academic Council/Governance and Nominations Committee/Senate Executive Committee</u>				
Responsible Officer(s):	<u>Secretary/Chair of GNC/University Secretary</u>				

### Function

~~A standing committee of Senate, reporting to Senate Appeal Committees drawn from a Committee Panel will be convened~~ to hear learner appeals based on ~~an~~ academic decisions, relating to promotion or withdrawal decisions, or findings of unprofessional behaviour, rendered by any Northern Ontario School of Medicine ("NOSM University" or "School") program or committee under the purview of the ~~Senate Academic Council (the "Council") making a promotion, withdrawal decision or finding of unprofessional behaviour.~~

All defined terms in this document shall, unless otherwise indicated, have the same meaning as in the Senate Appeals Policy.

The Senate Appeal Committee ("SAC") ~~Panel~~ is to:

- ~~• Be an impartial adjudicative appeal body of last resort for learners on academic matters, whose decisions are final and without further appeal;~~
- ~~• The committee will hear appeals, through Senate Appeal Panels, only after other appeal processes have been exhausted and will not hear matters/cases that are concurrently before other University bodies;~~
- ~~• An impartial adjudicative appeal body of last resort for learners on academic matters, whose decisions are final and without further appeal.~~
- Report on decisions of ~~the Appeal Panels/Committees, for informational purposes,~~ to the Academic Council/Senate (on an annual basis, or whenever the Senate requests a report) and to other applicable/appropriate bodies. (in all cases personal identifying Appellant shall be withheld) for informational purposes and, in the case of reports to the Senate, for the

Commented [FR1]: This is what last resort means legally, so I have deleted the term above.



~~purpose of receiving any feedback the senate considers appropriate. The name of the appellant shall be withheld in such reports.~~

- ~~• Advise and report to the Academic Council from time to time with respect to NOSM policies on academic appeals and appeal procedures throughout the School.~~
- ~~• Prepare for Senate approval and thereafter oOperate under the NOSM Policy Regarding Senate Academic Appeals, and Appeals Policy, including the and determine detailed procedures thereunder as necessary and appropriate.~~
- ~~• Where appropriate, the committee shall draw to the attention of relevant University bodies or individuals to any regulations, policies or practices that are giving rise to learner appeals so that they may be examined.~~

~~\* Any relief offered to learners in programs leading to a regulated profession may be constrained by professional accrediting bodies or placement agencies. Members of the SAC and the Panels may not grant relief that would contravene or undermine externally determined standards or requirements that apply to learners.~~

**Membership**

~~The SAC A Full Committee Panel shall be composed of the following individuals:~~

- ~~• 7 faculty (representation across the University\*) of which 3 shall be members of Senate and 4 at Large.~~
- ~~• The Chair of the Joint Senate Committee (or designate), who shall serve as Chair of the Committee Panel~~
- ~~• 2 additional members of the Joint Senate Committee~~
- ~~• 2 non-learner members from the Academic Council~~
- ~~• 3 faculty members at large (one from each Division — Clinical Sciences, Human Sciences and Medical Sciences Division)~~
- ~~• 1 learner appointed from each -NOSM program<sup>1</sup> or subset of NOSM programs~~
- ~~• The Secretary to the Academic Council University Secretary (Senate) (non-voting)~~

Commented [FR2]: Does this mean that some are not members of Senate?

~~SAC Members of the Committee Panel shall be appointed by NOSM's Academic Council Senate on the recommendation of the Governance and Nominations Committee Senate Executive Committee and in accordance with procedures determined by Senate, the Academic Council.~~

~~The SAC Chair and Vice-Chair shall be chosen by Senate from among the faculty members and shall appoint a Vice-Chair from among the faculty members on the SAC Committee. The terms of the SAC Chair and Vice-Chair will be two academic years, running from July 1 to June 30. Both the SAC Chair and Vice-Chair are eligible for appointment to multiple successive terms. In addition, the Senate may extend the terms of the Chair and/or Vice Chair for any period it deems advisable in the circumstances. To maintain have as much continuity as possible, the Chair will normally serve for at least a two year term and be succeeded by the a Vice-Chair then in office.~~

<sup>1</sup> NOSM Policy Regarding Academic Appeals Program Definition: "Program" means any combination of courses and/or other study requirements that, upon successful completion, lead to the award of a formal qualification such as a university degree (MD or MMS) or health professional certification (CCFP, FRCPC or RD).

~~Appeals are to be heard by a Panel of Committee Members chosen by the SAC Chair. Each Panel shall be made up of: To hear any appeal, a Panel Appeal Committee shall be convened by the University Secretary. The Appeal Committee Panel shall consist of:~~

- The SAC Chair or, in the event of a conflict or otherwise at the SAC Chair's discretion, ~~at their~~ designate, who shall serve as ~~Panel Chair of the Appeal Committee.~~
- ~~Three One (34) additional members of the SAC selected by the SAC Chair as follows: member from each of the following, selected by the Chair of the Appeal Committee in accordance with these Terms of Reference and the NOSM Policy Regarding Senate Academic Appeals Policy from among the membership of the Committee Panel:~~
  - ~~One (1) member of the Joint Senate Committee.~~
  - One (1) ~~faculty member non-learner member~~ from the ~~Senate Academic Council.~~
  - One (1) faculty member at large.
  - One (1) learner from a program other than the one in which the appeal is being heard.

Commented [FR3]: This results in an even number which could result in ties. Consider 2 or 4 additional members

~~An Appeal Committee or Panel is intended to provide a blanked consideration of the appeal. Where possible it should be representative of the whole University including the diverse nature of the University be representative of the University School and aimed at providing a balanced consideration of the appeal. The selection of the membership for an Appeal Committee should provide for a diverse representation when available. The Chair or Vice Chair designate shall take appropriate action to ensure such diversity on an Appeal Committee or Panel.~~

#### Resource Individuals

~~The following shall serve as ex officio non-voting resource members of the SAC and at the discretion of the SAC Chair, one or more may serve as non-voting resource members of a Panel:~~

- Associate Dean, Undergraduate Medical Education, non-voting and resource only
- Associate Dean, Postgraduate Medical Education, non-voting and resource only
- Assistant Dean, Learner Affairs, non-voting and resource only
- Program Manager, Northern Ontario Dietetic Internship Program (NODIP), non-voting and resource only
- Director of Planning and Risk, non-voting and resource only

#### Terms of Appointment

~~Membership Voting members of on the SAC Committee Panel shall be appointed for a period of term of two academic years, running from July 1 to June 30. Voting members are eligible for appointment to multiple successive terms. In addition, the Senate may extend the term of any voting member for any period it deems advisable in the circumstances.~~

~~The term of any member which would otherwise expire during the time that they are serving on a Panel, will automatically be extended to allow the member to complete the appeal the Panel is considering. Certain terms of service may survive beyond a member's term of appointment.~~

#### Conflict of Interest

1. Members of the ~~SAC Committee Panel~~ are responsible for recognizing and avoiding circumstances that may give rise to, or give the appearance of giving rise to, a conflict of interest between a member's direct or indirect interests and the member's obligations in conducting the business of the ~~SAC Committee Panel~~.
2. Members who have been asked to serve on a Panel of the Committee Panel must identify and disclose to the SAC Chair (or in the case of a conflict on the part of the SAC Chair to the Vice-Chair Committee Panel) any possible direct or indirect conflict of interest relating to a matter being appealed at the earliest possible time. ~~The disclosure shall be sufficient to disclose the nature and extent of the member's interest. Once made, a disclosure of a conflict of interest that continues to exist shall be considered a continuing disclosure and shall be sufficient to fulfill the member's obligations of disclosure without the member having to make any additional disclosure regarding the matter, provided that the member must identify and disclose to the Committee Panel any material change that would impact on the nature or extent of the conflict.~~
3. In appropriate circumstances, as determined by the SAC Chair or a Panel Chair as the case may be, a member of the SAC Committee or a Panel may be required to abstain from proceedings and discussions on an identified matter being appealed and shall not attempt in any way to influence the voting on such matter.
4. Prior to considering the merits of any appeal, the Panel Chair Committee Panel shall raise the question of whether any member of the Panel has a conflict of interest or an appearance of conflict of interest with the Panel members and, in consultation with the SAC Chair or the SAC Vice Chair if the Chair has a conflict, shall determine how the matter should proceed.~~determine if any member chosen to serve on an Appeal Committee has a conflict of interest in the matter being appealed.~~

**SAC Meetings and Panel Deliberations**

1. The SAC shall meet as a whole to consider general matters such as planning, policy review and reporting obligations as required by the SAC Chair Committee Panel and Appeal Committees will meet as required, including for planning and policy review purposes, based on the call for appeals or as directed by the Academic Council Senate.
2. Panels shall meet as required after they have been constituted.
- 2.3. For the purpose of a final decision on the hearing of any appeal by a Panel Appeal Committee:
  - (a) ~~A quorum shall be all the members of the Panel; compose of a simple majority all five (5) voting members of the selected Appeal Committee.~~
  - (b) A majority of votes is required for an appeal to be granted; Each voting member of the Appeal Committee will have one vote.
  - (b)(c) The Panel Chair shall only cast a vote in the event of a tie.
  - (c) ~~A simple majority of votes (i.e., more than 50% of votes cast) is required for an appeal to be granted.~~

**Commented [FR4]:** We need to discuss how this works with a panel of 4, including the Chair. If there are only 3 members aside from the Chair who can vote, there will never be a tie. It seems odd to me that two people (excluding the chair) can decide an appeal. I think you either need to add a 5<sup>th</sup> member, or keep it at three and give the chair a second vote in the case of a tie.

**Confidentiality**

1. Much of the information learned by obtained by members of the SAC or of a Panel, as the case may be, Committee Panel in connection with the business and proceedings of the

~~SAC or of a Panel/Committee Panel and its Appeal Committees, is~~ highly confidential. ~~SAC and Panel members and members~~ are ~~required~~ expected to maintain the ~~strict~~ confidentiality of all such information and not to use the information for any purpose other than the business of the SAC. Confidential information, ~~which~~ includes but is not limited to without limitation:

- a) Information concerning the personal affairs of ~~students~~ learners;
- b) Information concerning the business, operations and governance of the University School;
- c) Information concerning the personal and professional affairs of ~~School~~ staff and faculty.

~~(the "Confidential Information")~~

For greater certainty all information obtained by a member of the SAC during the course of their service on the SAC shall be treated as confidential.

2. ~~The obligation of SAC and Panel members to maintain confidentiality shall continue after the conclusion of the member's tenure on SAC or any Panel. duty of Committee Panel members to maintain the strict confidentiality of the Confidential Information applies both during and subsequent to their tenure of membership on the Committee/ Panel.~~

3. ~~Members of SAC and all Panels may only disclose confidential information. Disclosure of the Confidential Information must not be made by members of the Committee Panel except where such disclosure is necessary for the fulfillment of SAC's or a Panel's obligations, or required for the fulfillment of the Committee Panel's purposes and where otherwise required by law and then only to the extent necessary or thus required.~~

4. Meetings of SAC and deliberations of a Panel ~~of the Committee Panel and its Appeal Committees~~ are closed to the public.

5. At the conclusion of the term(s) of a member of SAC, the member shall return ~~On conclusion of the term of their appointment, all Appeal Committee's members must return to the SAC Chair of the Committee Panel or designate, without demand, any and all correspondence, notes or documents of whatever kind, papers and property belonging to the Committee Panel, including memoranda or other written matter emanating from his/hers/their tenure on SAC appointment with the Committee Panel.~~

6. ~~On conclusion of the term of their appointment, all Committee Panel members shall not publish or otherwise reproduce, by any means, any of the above-mentioned matters for possible use against the best interests of the Committee Panel or any learner student of the University/School.~~

7. All communications about the work of the SAC shall be made by the SAC Chair.

~~6-8.~~ All communications about the work of a Panel shall be made by the Panel Chair.

9. ~~The SAC Chair of the Committee Panel is~~ will be responsible for ensuring that each SAC member is aware of their confidentiality obligations.

~~7-~~ A breach of the confidentiality obligations will be considered to be misconduct of the highest order and in addition to any other sanction available to the University may result in the immediate removal of the member from the SAC. ~~advising the members on the following policy of confidentiality:~~

Commented [FR5]: Should they have an obligation to keep documents in a secure place while they are members of SAC or provide them to the Secretary for destruction?

Commented [FR6]: Is this necessary? Wouldn't it be covered by the requirement to keep the material confidential and not use for any other purpose under 1.

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- ~~(a) prevention of unauthorized release of information from the Committee Panel is only possible through the goodwill and integrity of the individual members;~~
- ~~(b) strict confidentiality must be maintained regarding all information presented to and considered by the Committee Panel and its Appeal Committees;~~
- ~~(c) the official spokesperson for the Committee Panel and its Appeal Committees will be the Chair.~~

**Related Policies/Documents**

- Related Program Appeals Policies
- ~~NQSM Policy Regarding Senate~~ -Academic Appeal Policies
- Request for Appeal Form
- Appeal Process Overview Chart

DO NOT REMOVE THIS VERSION RECORD FROM THIS DOCUMENT		
Version	Date	Authors/Comments
V1.0	June 15, 2006	Original document
V2.0	January 30, 2014	Complete revision based on new Appeals Policy and other requirements
V3.0	April 5 2018	BLG Legal Opinion / Full Review /Updated JSC Recommendation to list Divisions and footnote on Programs
<u>v.4</u>	<u>New</u>	<u>2022 university updates</u>