Appealing to the Senate Review Board Academic (SRBA)

The purpose of this guide is to:
- outline the role of the Senate Review Board Academic (SRBA)
- help a student figure out when and whether to appeal to SRBA
- help a student prepare a submission to SRBA
- help a student prepare for a hearing before SRBA

This guide is not intended to replace the policy on Undergraduate Student Academic Appeals (www.uwo.ca/univsec/pdf/academic_policies/appeals/appealsundergrad.pdf) or Graduate Student Academic Appeals (www.uwo.ca/univsec/pdf/academic_policies/appeals/appealgrad.pdf). Anyone contemplating an appeal to SRBA should read these policies.

The Role of the Senate Review Board Academic (SRBA)
The purpose of the SRBA is to consider appeals from students against decisions of Deans when:
- a student has appealed a decision or made a request to a Dean;
- the Dean has denied the appeal or request;
- the appeal or request is one which falls under SRBA's jurisdiction, and, where applicable, SRBA grants the student leave to appeal.

Decisions of the SRBA are final and binding on the parties.

Who Sits on the SRBA?
The membership pool is 13 members of faculty, 10 students (6 undergraduate and 4 graduate), and a Chair. The Chair votes only in the event of a tie. There are also two ex-officio non-voting members (the Secretary of Senate and the Vice-Provost and Registrar) who may be represented by alternates. Members are named to the SRBA by Senate.

New members receive a members' handbook, attend an orientation on legal requirements and procedural do’s and don'ts, and may attend a hearing as an observer before sitting on a panel.

The quorum for a panel is 3 voting members (one must be a faculty member and one a student) plus the Chair. At any given appeal there may be more than 3 voting members. Panelists should have no relationship to the parties to a hearing which could influence or be perceived to influence their decision on the matter.

What Can Be Appealed?
The policy outlines the categories of appeal under "Jurisdiction":
- matters where a student has a right to appeal to SRBA - that is, matters where a hearing will be granted;
- matters where SRBA may grant a student a hearing;
- and exceptional circumstances when SRBA may agree to hear other sorts of matters.
1. A right to appeal
A student has a right to appeal against the finding that they committed a scholastic offence (e.g., cheating, plagiarism) and/or against the penalty imposed for a scholastic offence.

2. A hearing may be granted:
   - if the student is claiming that the Dean failed to follow (or condoned a failure to follow) a Senate regulation. "Senate regulations" are the academic rules found in the Academic Calendar [www.westerncalendar.uwo.ca/](http://www.westerncalendar.uwo.ca/) and the Academic Policies [www.uwo.ca/univsec/](http://www.uwo.ca/univsec/).
   - if, on compassionate or medical grounds, a student is appealing a Dean’s decision requiring withdrawal from a program, the University or an Affiliated College;
   - if the appeal is against general marking or grading practices; or
   - if the appeal is against a decision made with respect to the Policy on Academic Accommodation for Students with Disabilities.

A panel of SRBA will review the application for hearing to determine whether there are valid grounds to hear the appeal in the above situations.

3. Failure to observe a procedural requirement
Where SRBA agrees there was a failure to observe a procedural requirement at the prior level, it may instruct the Dean to reconsider the matter, rather than hear the case itself. But if the failure to observe a procedural requirement has already been remedied, it may simply refuse to hear the case.

4. Bias at the prior level
Conflict of interest is described in the Academic Policies [www.uwo.ca/univsec/pdf/academic_policies/appeals/conflict_of_interest.pdf](http://www.uwo.ca/univsec/pdf/academic_policies/appeals/conflict_of_interest.pdf) and the Graduate Regulations [www.grad.uwo.ca/current_students/regulations/index.html](http://www.grad.uwo.ca/current_students/regulations/index.html). In essence, conflict of interest arises when one person assumes two roles with respect to another. Example: your parent, a faculty member, grades your honors thesis.

In the case of bias for reasons other than conflict of interest, other policies may need to be used to make the case before SRBA can consider the matter. Consult the University’s Non-Discrimination/ Harassment Policy, or discuss the matter with Equity Services. Evidence a person may be expected to provide in support of an allegation of bias: testimony of witnesses; a pattern of decision-making in regard to the individual student which seems most readily explained by bias; demonstrably inconsistent decision-making which seems most readily explained by bias; letters or other documents written by the person of whom bias is alleged; public statements by the party.

It is not sufficient for the individual to suspect bias. SRBA requires clear and convincing evidence that the decision maker could have been biased before agreeing to hear a case.

**Deciding Whether to Appeal or Not**

It is not enough to determine whether you may appeal a Dean's decision to SRBA: you should also think about whether you should appeal the decision. Only you can make this decision. A decision to appeal should be based on:
• a good understanding of your own case
• a real appreciation for how important the issue is to you
• an understanding of the SRBA process (through reading this guide and the Academic Policies)

**Understanding Your Case**

Understanding your case means seeing it not just from your own point of view, but also from the Dean's point of view. It is also essential to understand who has the burden of proof.

Look at the examples of disagreement which follow, and try to itemize and classify the areas of disagreement between you and the Dean in your own case. That will help you understand the Dean's position. Examine the evidence in support of each point of view.

**Disagreement about a matter of fact**
You claim to have called the Dean's office before the exam, to report that you were too ill to write it; but the Dean claims there is no record of your call.

**Disagreement about the interpretation of a rule or policy**
You missed an exam because of a religious holiday. You claim the alternative, of having the final count for 75% instead of 50%, is tantamount to a penalty, and contravenes Senate policy on Religious Holidays. The Dean maintains that weighting the final exam more heavily is a normal, not a punitive alternative.

**Disagreement about the relevance or weight of evidence**
You claim the notes you inadvertently took into an examination had nothing to do with that course; the Dean maintains the substance of the notes is not important, the fact is they were unauthorized.

You believe your illness accounts for your poor academic performance last year, but the Dean claims there is insufficient evidence that your illness was the main factor in your failure.

**Importance of the Issue**

What makes this appeal important to you? How will you feel in six months if you don't appeal? How will you feel if your appeal is denied? Talking the matter over with a friend, family member or counsellor may help you make the decision which is best for you in the long term.

If you appeal, you will have the satisfaction of knowing you did all you could, even if your appeal is denied. On the other hand, if you decide not to appeal, you can put the matter behind you and move forward without delay.

**How to Prepare for Your Hearing**

It is normal to feel nervous about an SRBA hearing. There are things you can do which will help you do your best at the hearing and which may help you feel less nervous:
most importantly, review the order of proceeding which applies in your case (see the Undergraduate Student Academic Appeals [www.uwo.ca/univsec/pdf/academic_policies/appeals/appealsundergrad.pdf](http://www.uwo.ca/univsec/pdf/academic_policies/appeals/appealsundergrad.pdf) or Graduate Student Academic Appeals [www.uwo.ca/univsec/pdf/academic_policies/appeals/appealsgrad.pdf](http://www.uwo.ca/univsec/pdf/academic_policies/appeals/appealsgrad.pdf)) and plan what you will say;

- some students find it helpful to visit the room where the hearing will take place;
- dress in a way that makes you feel both comfortable and appropriate. Some SRBA members and Deans dress in a business-like manner, others dress casually.

**Agents, Lawyers, Friends**

You have a right to be represented by counsel or an agent in a SRBA hearing. Many students do not use counsel or an agent. What are the pros and cons?

An agent is someone who acts for you at the hearing, but is usually not a lawyer. A friend could act as your agent. (See the document, *Agents and Colleagues: Students Helping Students* for more on this issue.)

An agent or lawyer makes the opening statement, asks questions to prompt you to tell your story effectively, questions witnesses and the Dean, and makes the summary remarks. An agent or lawyer may present your case more effectively than you could, but no agent or lawyer can make a case unless you have a case to be made.

An alternative to going all alone to your hearing, using an agent or hiring a lawyer, is having a friend or family member accompany you as an observer. The presence of someone who cares for you can be important, and you will be able to discuss the hearing later with someone who was there.

Community Legal Services provides free legal advice to all Western and affiliated university college students, and will represent students at the SRBA. These services are provided by Western Law students under the supervision of experienced lawyers.

The Office of the Ombudsperson provides information about the role of the SRBA, including relevant university polices and the process for appealing for a hearing.

**The SRBA Process**

**Oath or Affirmation:** Everyone giving testimony at a hearing is required to make an oath or affirmation to tell the truth, the whole truth and nothing but the truth. The exact words are provided; the appellant or witness simply reads the chosen version out loud.

**Opening statement:** lets the panel members and the Dean know what the student's main argument is, and the evidence the student will use in making it.

*Examples:*
I am appealing the decision of Dr. Owen, to deny me a Dean's Waiver. The grounds of my
appeal are medical and compassionate. In making my case I will refer to doctor's letters and other documentation in the file, and also call my sister as a witness....

I am appealing the decision of Dr. Smith, to suspend me for one year for cheating on an examination. I will argue that the punishment is excessive and more than the punishment given other students...

I am appealing the decision of Dr. Majhanovich, that I be required to withdraw from the Bachelor of Education program. It has been a lifelong ambition of mine to teach elementary school, and I believe I am well suited to it. In evidence, I have submitted numerous testimonials from teachers and community leaders familiar with my volunteer work....

Presentation of evidence by appellant: The student should remember that although members will have read the document package in advance, there is a real value in the personal appearance of the student. That value comes from the way the student tells his or her story. A story invites the listener to imagine events from the storyteller's point of view. If, in telling the story, the student also invites members to turn to particular documents, he or she will probably have made a good presentation of the case.

It is helpful to remember the Dean's reasons for his or her decision, and to try, whenever possible, to address those reasons in advance when telling the story. If there is a point which is somewhat damaging to the case, it is a good idea to mention it yourself.

Example:
Given the fact that my health has been very good since April you must wonder why I failed my intersession course. I signed up for the course with every intention of doing well, but was unable to follow through when my employer sent me to our branch in Hearst...

It is only during the presentation of evidence that the appellant is free to make a statement. Therefore it is important to make all necessary points at this one opportunity. (At other times in the hearing, the appellant is only permitted to respond to questions, or make clarifications of very specific issues.)

Begging, pleading, and elaborate, hypothetical arguments can be self-defeating.

Examples:
1. Why would I cheat? Look at my grades, I have been getting As and Bs in all my courses!
2. It's really important for me to get a waiver and come back to school. If I have to stay out for a year, I may never ever come back!

Witnesses: When a student calls a witness, the witness should state his or her name, relationship to the party or the case, and position at the university.

Example:
"My name is John Doe, I am registered in the Faculty of Social Science in the Honours Sociology program, and I am the roommate of the appellant...."
You should know in advance what it is you want the witness to tell the SRBA, that is, what claim or evidence your witness is a witness to.

**Cross-examination of the appellant by the Faculty representative, followed by questions from SRBA members:** Questions can relate to any matter deemed to be relevant, whether the student spoke of that matter or not. For example, the student may have said nothing about high school grades, but the Dean or SRBA member may ask about them.

The student has a right to object to questions he/she deems to be not relevant. If the questioner does not withdraw the question, the Chair will rule on whether the question must be answered.

**Cross-examination of the Faculty representative by the appellant:** Most Faculty representatives are well-prepared and make an orderly presentation of their case which leaves little room for questioning. But it is a good exercise to try to anticipate what the Faculty representative will say, and to prepare some questions. Then the presentation can be judged by how well it has answered the questions. If questions are asked of the Dean or the Dean’s witness, they should be asked in order to elicit information or to clarify a point, not to try to change the Dean’s mind about the case. Remember: the appeal is taking place because you disagree with the Dean.

**Reply evidence by the appellant:** If the Dean does raise an issue which was not covered in the appellant’s own presentation of evidence, the student may provide the SRBA with additional information or evidence relating to this new matter.

**Example:**
The Dean goes over the record of a student’s illness in a prior year, highlighting the accommodations that were provided to the student at that time. The student may wish to say in reply: "While it is true that I was granted special exams in my second year, I think it is important to put that request in context. I was called for surgery the very day of my Calculus exam when a bed was unexpectedly available...."

**Summary remarks by the appellant:** Summary remarks are a brief restatement of the argument, and may make reference to the evidence presented. No new evidence is presented in the summary remarks. If the Dean thinks the case is clear, he or she may decide not to make summary remarks.

**The Decision**

During the hearing it is the job of each SRBA member to try to make sense of the student’s basic claims and arguments, as well as the reasons why the Dean denied the appeal. If the issue is a finding that a student committed a scholastic offence, the members have to consider whether the evidence is sufficient. If the issue is the Dean’s decision on another matter, the onus is on the student to show that the Dean’s decision was unreasonable and unsupportable on the evidence before the Dean. In that case, the members have to decide whether the student did show that the Dean’s decision was unreasonable and unsupportable.
When each member has come to a conclusion, a vote is taken. The decision of SRBA is the decision of the majority of voting members on the panel. Parties may find out the decision informally that same day or the next day. Parties will not be told about the vote of individual members, or whether the decision was unanimous.

Parties should never assume that the status of a member will determine his or her vote. Students may be un convinced by the student's arguments. Faculty members may be sympathetic.

NOTE: This guide was produced by the Office of the Ombudsperson www.uwo.ca/ombuds. It is not an official university document and is not intended to replace university policy.

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