

Senate Review Board Academic Appeals

Policy Category:	Rights and Responsibilities
Subject:	Senate Review Board Academic Appeals
Subsections:	Introduction ; Definitions ; Appeals After the Course/Program Level ; Application for Appeal ; Jurisdiction ; Relief ; Initial SRBA Panel Review ; Onus ; Oral Hearings ; Further Appeal
Approving Authority:	Senate
Responsible Committee:	Senate Committee on Academic Policy
Related Procedures:	Procedure for Senate Review Board Academic Appeals
Officer(s) Responsible for Procedure:	Provost & Vice-President (Academic)
Related Policies:	Scholastic Offences Requests for Relief from Academic Decisions Academic Integrity in Research Activities Academic Accommodation for Students with Disabilities
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1.0 INTRODUCTION

Students may appeal some academic and scholastic disciplinary decisions by a Dean, Vice-Provost (Graduate and Postdoctoral Studies), or their designate, to the Senate Review Board Academic (SRBA). Previously decided rulings by Deans or the Vice-Provost (Graduate and Postdoctoral Studies) in academic and scholastic disciplinary matters are final unless overturned or modified on appeal to SRBA. SRBA is the final body to which students may appeal certain rulings of Deans or the Vice-Provost in academic matters, and its decisions are final.

Senate Review Board Academic Appeals

References to the Dean in this policy and related procedures are to be interpreted as “Dean or their designate or equivalent”. In the case of graduate students, Dean is to be interpreted as “Vice-Provost (Graduate and Postdoctoral Studies) or their designate.” For an appeal based on a request for relief related to Western Continuing Studies course, “Dean” shall be interpreted as “Dean of the partnering Faculty”.

This policy applies to appeals of Graduate and Undergraduate Academic matters and Scholastic Offence decisions.

SRBA has jurisdiction to hear appeals of certain academic decisions of Deans. The Secretariat shall not accept, and SRBA shall not consider, allegations set out in an Application that fall outside of SRBA’s limited jurisdiction.

2.0 **DEFINITIONS**

Appellant – The student who filed the appeal.

General marking or grading practices refers to the overall marking or grading structure of a course or an assessment as applied to all students in the course. It does not apply to a mark or grade given to an individual student.

Party – the parties to the appeal are the appellant and the respondent.

Reasonable Apprehension of Bias means that a reasonable and informed person, viewing the matter realistically and practically, would think that it is more likely than not that a decision maker was biased in respect of the decision under appeal.

Respondent – the Dean or Vice-Provost who made the initial decision that is under appeal in front of SRBA.

Scholastic Offences is defined in the policy on *Scholastic Offences*.

University, for the purposes of this policy, means Western University and its Affiliated University Colleges.

Unreasonable, for the purposes of appeals to SRBA, means the decision is not supported by the evidence provided to the Dean. When determining whether a decision or severity of penalty is unreasonable, SRBA must consider that a high degree of deference is given to the Deans in reaching their decisions. The question posed to SRBA isn’t whether someone besides the Dean could have made a different decision, but whether the Dean’s decision could have been made by a reasonable person based on the evidence provided to the Dean.

3.0 APPEALS AFTER THE COURSE/PROGRAM LEVEL

- 1) Requests for relief are handled at the course/program level and are subject to the requirements in the policies on *Request for Relief from Academic Decisions* and *Scholastic Offences*.
- 2) Following the issuance of the Dean's written decision for the request for relief, a student may have a right of appeal to SRBA if the decision falls within the jurisdiction of SRBA.
- 3) Appeals to SRBA must be made **within six (6) weeks** of the date of the Dean's decision. The decision of the Dean or designate remains in full force and effect unless and until overturned or modified by SRBA.

4.0 APPLICATION TO APPEAL

Appeals to SRBA must be made on an Application for Appeal (Application) which must be filed with the University Secretariat **within six (6) weeks of the date of the Dean's decision**. Requirements for the Application are detailed in the *Procedure for Senate Review Board Academic Appeals*.

5.0 JURISDICTION AND GROUNDS FOR APPEAL

SRBA has jurisdiction to hear appeals from certain academic decisions of Deans under the specific grounds set out below, provided that the student has followed the procedures set out for requesting relief at the earlier levels.

- 1) For **scholastic offence appeals**, a student has the right to an oral hearing before SRBA if the appeal is against a finding that the student's conduct amounted to a "scholastic offence" and/or for relief against the penalty imposed by the Dean as a result of a "scholastic offence".
- 2) For **other appeals**, a student may apply for an oral hearing before SRBA in the following circumstances:
 - a) The Dean fails to follow or to properly apply a Senate regulation;
 - i. Students are required to list the policy or procedure and detail the alleged error in the Application.
 - b) New evidence, not available at the time of the earlier decision, has been discovered, which casts doubt on the correctness of the Dean's decision. New evidence will only be considered if:

Senate Review Board Academic Appeals

- i. through due diligence, it could not have been provided to the Dean before the Dean's decision;
 - ii. it is relevant in the sense that if believed, it could reasonably, when taken with the other evidence before the Dean, be expected to have affected the result; and
 - iii. it is credible in the sense that it is reasonably capable of belief.
- c) The appeal is against general marking or grading practices.
 - i. Students are required to describe the specific marking or grading practice at issue and identify the concern with the procedure in the Application. SRBA will not look for evidence of unfairness or flaws in the design or implementation of the overall marking or grading structure beyond what the appellant identifies.
- 3) In exceptional circumstances, SRBA may agree to an oral hearing of an appeal against a Dean's decision that does not fall within one of the grounds for appeal above, if a student alleges in the Application that there was:
 - a) a failure to observe a procedural requirement at the decanal level; or
 - b) a reasonable apprehension of bias at the decanal level.
- 4) The following grounds are outside SRBA's jurisdiction:
 - a) A denial of transfer into a Faculty, School, Affiliated University College or program following a requirement to withdraw from another Faculty, School, Affiliated University College or program at the University;
 - b) Decisions related to admissions and advanced standing;
 - c) Appeals falling under the *Policy on Academic Accommodations for Students with Disabilities*;
 - d) Appeals relating to alleged discrimination; or
 - e) Appeals of tuition refund or other financially-related decisions.
- 5) Evidence of wrongdoing may result in criminal prosecution in addition to any proceedings within the University.

6.0 **RELIEF**

Where SRBA grants an appeal, SRBA will grant such relief as it deems appropriate and in accordance with University policy.

7.0 **INITIAL SRBA PANEL REVIEW**

Except where a student has an automatic right to an oral hearing before SRBA in accordance with this policy, an SRBA Panel may, in its discretion, order that an oral hearing be scheduled or deny the appeal based on the grounds and evidence provided in the Application and the Dean's response.

8.0 **ONUS**

- 1) The onus is on the student to satisfy SRBA that the ruling of the Dean was unreasonable or unsupportable on the evidence before the Dean or, with respect to a sanction imposed for a "scholastic offence", that the penalty was unreasonable.
- 2) Notwithstanding 8.0 (1) above, in cases where a Dean made a finding that a student's conduct amounted to a "scholastic offence", and where the student denies either that the acts were committed or that the acts amounted to a "scholastic offence", the onus is on the Dean to satisfy SRBA that the student committed the alleged acts and that the acts amounted to a "scholastic offence".
- 3) If the student alleges a failure to observe a procedural requirement at the decanal level or a reasonable apprehension of bias at the decanal level, the onus is on the student to satisfy SRBA, on the basis of written documentation, that there was a failure to observe a procedural requirement or reasonable apprehension of bias at the decanal level.
- 4) The onus requirements set out in 8.0 (1) and (2) above, for an appeal against a finding that a student's conduct amounted to a "scholastic offence" or against the sanction imposed for a scholastic offence, apply similarly to an appeal against a finding that there has been a breach of other University policies, such as the *Policy and Procedures for the Responsible Conduct of Research*, or an appeal against the sanction imposed for such breach.

9.0 ORAL HEARINGS

9.1 Retention of Legal Counsel

While legal counsel is not required, a student may retain legal counsel, at their own expense, to represent them in an appeal before SRBA. SRBA also reserves the right to retain counsel.

9.2 Costs

The parties must bear all their own legal expenses, if any. SRBA will not order the Faculty of the Respondent to pay all or part of the Appellant's costs, nor will it order the Appellant to pay all or part of the Faculty's costs.

9.3 Previous Decisions

Each appeal is decided on its merits. A decision of SRBA does not set a precedent.

9.4 Official Record of the Appeal

The official record of the appeal hearing will consist of all documentation submitted by the parties, the Notice of Decision, and the statement of reasons of SRBA. This record will be retained by the University Secretariat for at least one year following the hearing.

10.0 FURTHER APPEAL

SRBA is normally the final level of academic appeal in the University; its decisions in substantive matters, and decisions as to jurisdiction and whether it will hear an appeal, are final.

In limited circumstances, the Chair of Senate (i.e., the President & Vice-Chancellor) may review decisions of SRBA if a party alleges a serious procedural error by SRBA, as set out in the *Procedure for Senate Review Board Academic Appeals*.

Decisions that are appealed to the Chair of Senate remain in full force and effect until the appeal is disposed of by the Chair of Senate.