



TO: Members of the Academic Board

SPONSOR: Kate Hilton, Senior Chair, Academic Appeals Committee

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AGENDA ITEM 7

**ITEM IDENTIFICATION:**

**Academic Appeals Committee – Revisions to the Terms of Reference:  
Proposed Changes to the Composition Requirements of the Academic Appeals  
Committee (“AAC”)**

**JURISDICTIONAL INFORMATION:**

Sections 3.2.2 (iv) and 3.2.4 (ii) of the *Terms of Reference* for the AAC describes the process for changing the *Terms of Reference* as follows:

**3.2.2** Policy meetings may be called in the following circumstances:

(iv) to consider or recommend changes to the Terms of Reference of the Academic Appeals Committee of Governing Council;

**3.2.4** At the conclusion of a policy meeting, the Committee shall report its advice and recommendations for consideration in the following manner:

(ii) For items considered under 3.2.2(iv), the Committee shall report to the Academic Board;

Section 3.2.3 of the *Terms of Reference* describes the vote, including quorum requirements as follows:

The quorum for policy meetings is 6, excluding the Chairs, at least 3 of whom must be teaching staff members and at least 1 of whom must be a student. Motions in such meetings will be carried by a simple majority. The Chairs each have a vote in such meetings.

## **HIGHLIGHTS:**

### **Background**

The proposal is to change the composition of the AAC so that appeals are heard in front of a committee of three members (at present it is a committee of five members). There would be a requirement that at least one student member and at least one teaching staff member be present on all committee hearings (previously three members of the teaching staff had to be on the committee). A majority of those present would continue to be members of the Governing Council. The Chair of the AAC would become a voting member of the three person committee, whereas previously the Chair would only vote in the event of a tie.

This proposal has been precipitated by the fact that for several years there has been great difficulty scheduling AAC hearings in a timely manner, because of the stringent composition requirements. This requirement has created an onerous burden in terms of scheduling for the Office of Appeals, Discipline, and Faculty Grievances (“ADFG”), resulting in unnecessary and often inordinate delays<sup>1</sup> which directly affect procedural fairness for student appellants. Timeliness is a fundamental component of natural justice, and has recently been recognized and mandated by the courts in the academic appeals context of a University setting. Our attention has also been focused by the concern raised by the Ombudsperson, who identified problems for students arising from delays.

Timely disposition of an academic appeal ensures a fair process: first, students should be able to plan their academic and professional lives, since the outcome of an academic appeal often affects their graduation or admission to another program; and second, an inordinate passage of time might create a situation where a student cannot obtain the original remedy they requested (e.g. writing a deferred exam).<sup>2</sup>

A change in the composition requirements would also allow the ADFG Office to provide material to the panel members well in advance of hearings, as panels and hearing dates could be set more expeditiously than at present. This would address another fundamental principle of natural justice, which is to be heard by a well-informed Panel who has reviewed the material in detail.

### **Proposal**

The AAC Chairs raised the issue of timeliness and composition requirements as a matter that needed to be examined and addressed, given the potential legal vulnerability of not

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<sup>1</sup> For example, it took 6 weeks for one person working full-time to schedule the June hearing week. Often the earliest date that can be found is at least two to three months in the future, given the current requirements.

<sup>2</sup> Many divisions have also indicated a preference for having appeals disposed of earlier, as remedies are often more easily implemented (e.g. deferred exams).

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disposing of cases in a timely manner. The result of this discussion was an extensive consultation with the University's legal counsel, who advised that the only proposal that would facilitate scheduling and also comply with legal principles and various pieces of legislation such as *The University of Toronto Act, 1971*, would be the following: a panel of three members, including one voting Chair. As outlined above, there would be one faculty member, one student member, and a majority of the three-person panel would be governors. As none of the current chairs is a governor, this would mean the faculty and student members would always be governors. The requirement that all Chairs be legally qualified would remain. Appropriate representation from the Academic Board would also continue to be ensured for the AAC membership pool; the Academic Board *Terms of Reference* allows for the appointment of up to four student governors and six faculty governors to the Academic Board, all of whom would be in the AAC membership pool.

At present Chairs only vote in the case of a tie, which is highly unusual. Therefore, in almost all AAC appeals, it is only the other 4 members who vote. This means that the proposal would almost always result in a change from 4 voting members to 3 voting members. Such a model of three, which is similar to that of the University Tribunal, would work well for the AAC. This model for the Tribunal has been effective, both from a process and a substantive standpoint, and it would benefit the AAC as well.

### **Consultation**

Extensive consultation regarding this proposal was conducted with current members of the AAC, student and faculty governors, student and faculty members of the Academic Board, and divisional representatives involved in academic appeals. Three consultation meetings were held, and written and oral feedback was invited and received. The feedback that has been provided is overwhelmingly positive and supportive of this proposed change.

### **Review**

It is recommended that a review of the composition change of the AAC should be conducted by the ADFG by June 30, 2013. The outcome of that review would be reported to the members of the AAC who are members on that date, and then to the Academic Board and other governance bodies as appropriate.

### **Process**

If recommended for approval by the Academic Board, the proposal would then be considered by the Governing Council for approval, on February 17, 2011.

**FINANCIAL AND/OR PLANNING IMPLICATIONS: N/A**

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**RECOMMENDATION:**

Be it Recommended to the Governing Council

THAT the proposed revised *Terms of Reference* of the Academic Appeals Committee (AAC) be approved, effective March 1, 2011; and

THAT a review of the composition change of the AAC, to be conducted by the Office of Appeals, Discipline, and Faculty Grievances by June 30, 2013, be approved.