



**FOR
RECOMMENDATION**

PUBLIC

OPEN SESSION

TO: Academic Board

SPONSOR: Christopher Lang, Director, Office of Appeals, Discipline & Faculty
CONTACT INFO: Grievances ("ADFG Office")
christopher.lang@utoronto.ca

PRESENTER: See above.
CONTACT INFO:

DATE: May 13 for May 29, 2025

AGENDA ITEM: 10(a)

ITEM IDENTIFICATION:

Proposed Revisions to the *Terms of Reference* of the Governing Council's Academic Appeals Committee ("AAC")

JURISDICTIONAL INFORMATION:

There are multiple sections of the AAC *Terms of Reference* that speak to the process for proposing revisions, as outlined below.

Section 3.2.2 (iv) indicates that policy meetings may be called to "consider or recommend changes to the Terms of Reference of the Academic Appeals Committee of Governing Council."

Section 3.2.3 then describes the vote, including quorum requirements. It provides:

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.

Finally, section 3.2.4 provides that the governance path as follows:

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

GOVERNANCE PATH:

1. **Academic Board [for recommendation] (May 29, 2025)**
2. **Governing Council [for approval] (June 24, 2025)**

PREVIOUS ACTION TAKEN:

The last revisions to the *Terms of Reference* were approved by the Governing Council on February 17, 2011.

HIGHLIGHTS:

Background

For the last several years, we have seen an increase in the complexity of academic appeals, including an application for judicial review filed with the Divisional Court, challenging an appeal decision. In addition, there has been an increase in the number of legal issues raised, the number of multi-day hearings, and the need for pre-hearing meetings with students and divisional representatives. Adding to this complexity is the confusion created by some of the language in the *Terms of Reference*, specifically section 3.1.9. This section references the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 ("SPPA") and reads: "[t]he procedures for hearings required by the Statutory Powers Procedure Act, R.S.O. 1990, c. 22, as amended, are followed (in view of the fact that this is the final appeal body). The Committee may modify these rules provided that they continue to conform to the minimum requirements of the Act." This language in section 3.1.9 led to questions regarding whether the SPPA applies, how it applies and how broadly or narrowly it applies, particularly given the reference to "procedures for hearings" is not mirrored in the SPPA.

Section 3.1.9 has also recently been referenced in multiple academic appeals. The difficulty, however, is that neither chairs, nor experienced legal counsel appearing before the AAC, have a uniform view as to the meaning of this section, specifically, in what way the SPPA applies to academic appeal hearings. This created the following concern for the Senior Chair of the AAC and the ADFG Office: if those who are legally trained do not share a consistent view of the meaning of section 3.1.9, how could self-represented students and divisional representatives understand this provision? With this concern in mind, and coupled with the complexities outlined above, the Senior Chair of the AAC and Director of the ADFG Office requested a legal opinion from internal legal counsel at the University. The request sought to clarify two issues:

- does the SPPA apply to academic appeal proceedings before the AAC, whether it is referenced in 3.1.9 or not; and
- if the answer is no, and the SPPA only applies because it is referenced in section 3.1.9, what does the language limiting its application to "procedures for hearings" mean, given there is no corresponding section in the SPPA.

The legal opinion confirmed that the SPPA applies regardless of whether there is specific language in the *Terms of Reference*. This created a two-fold need: to revise this language in

the *Terms of Reference* and to create *Rules of Practice and Procedure* ("Rules").¹ Both of these were done with a view to clarifying the process to make it easier for students and divisions (many of whom are self-represented) to understand, and to assist the chairs and the ADFG Office with managing cases.

The *Terms of Reference* document has been revised in modest ways, and along with the newly created Rules, should clarify the confusion associated with section 3.1.9. Specifically, although this section currently references "minimum requirements" of the SPPA, it is more helpful to view the SPPA as containing provisions that are either mandatory or permissive. Given that the AAC is a reviewing body that does not normally hear academic appeals anew, there are certain permissive provisions in the SPPA that are more appropriate for tribunals that hold de novo hearings. As a result, the AAC has chosen not to adopt these types of provisions in the Rules. This decision also prevents unnecessary complexities and confusion, especially for self-represented students and divisions.

There are additional minor revisions that provide clarification, and/or promote consistency with language in the SPPA, the *University of Toronto Act, 1947*, and the *Policy on Academic Appeals Within Divisions* ("Policy"). Some of these revisions are as follows:

- the standard of review, which is reasonableness as per the Policy, has been added;
- the governance path for changes that are "considered" versus changes that are "recommended" have been clarified; and
- the term length for chairs (including the Senior Chair) is being brought in line with the term length of the University Tribunal's chairs, given that AAC chairs have almost exclusively accepted multiple yearly term extensions.

Consultation Phase

Extensive consultation was conducted with current members of the AAC, consisting of the chairs, student governors and teaching staff governors, and in addition, internal legal counsel. The consultation phase consisted of multiple rounds of meetings between the members and the Senior Chair/ADFG Office, including meeting on an individual basis where necessary. After the feedback and initial consultation meetings, each member who provided feedback was also offered the opportunity to meet individually with the Senior Chair and Director of ADFG. The purpose of these meetings was to explain to the member where proposed feedback was incorporated, but more importantly, to explain why certain suggestions were not included. Part of this process also involved the ADFG Office identifying parts of the revised *Terms of Reference* that should be supported by additional resources, such as information on the

¹ The Rules are being provided in a different document to the Academic Board for information only.

website, templates and/or process documents. The purpose of these resources is to provide plain language explanations for students and divisional representatives.

At the end of this process, all AAC members except one, either participated in consultation meetings, met individually with the Senior Chair and ADFG Director to discuss their feedback, or attended the policy meeting. Almost seventy-five percent of members attended the meeting, where the proposed revised *Terms of Reference* were unanimously endorsed.

FINANCIAL IMPLICATIONS:

N/A

RECOMMENDATION:

Be it Recommended:

THAT the proposed revised Academic Appeals Committee Terms of Reference be approved, effective immediately, replacing the Terms of Reference previously approved on February 17, 2011.

DOCUMENTATION PROVIDED:

- Clean copy of the revised *Terms of Reference*
- Track change version of the revised *Terms of Reference*