

FOR INFORMATION**PUBLIC****OPEN SESSION**

TO: Academic Board

SPONSOR: Christopher Lang, Director, Office of Appeals, Discipline & Faculty
CONTACT INFO: Grievances ("ADFG Office")

PRESENTER: See above.
CONTACT INFO:

DATE: May 13 for May 29, 2025

AGENDA ITEM: 10(b)

ITEM IDENTIFICATION:

Creation of *Rules of Practice and Procedure of the Academic Appeals Committee*

JURISDICTIONAL INFORMATION:

Sections 1.1, 3.1.6 and 3.1.9 of the *Terms of Reference* for the AAC all refer to rules of the AAC in various ways. Specifically, section 1.1 indicates that the duties of the Senior Chair should be specified in rules; section 3.1.6 states that a Notice of Appeal shall be filed in accordance with the rules; and section 3.1.9 indicates that the AAC may modify rules.

Also relevant is section 3.2.2 (v) that allows the Senior Chair to call a policy meeting to deal with any other matter not addressed elsewhere in section 3.2.2. When a policy meeting is called, section 3.2.3 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 3.1.9 outlines the governance path as follows:

Rules are reported to the Academic Board for information.

GOVERNANCE PATH:

1. Academic Board [for information] (May 29, 2025)

PREVIOUS ACTION TAKEN:

N/A

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”). 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.

Rules have been created to assist not just lawyers appearing before the AAC, but more importantly, self-represented students and divisional representatives. In addition, given the SPPA applies to the academic appeal process before the AAC, and given certain provisions of the SPPA can only be applied if a tribunal has adopted rules, the AAC decided to create Rules. The membership then determined which provisions should be adopted and would work well with an appeal process. Specifically, there are certain provisions in the SPPA that are not mandatory. For some of these provisions, the AAC chose not to incorporate them into the Rules, as they are more appropriate for tribunals that hold de novo hearings. This decision was to prevent unnecessary complexities and confusion, especially for self-represented students and divisions.

In addition, the Rules provide valuable clarifications and substantive information about a range of topics related to academic appeals, including: outlining roles and responsibilities; establishing requirements for filing documents; explaining how to initiate and respond to appeals; addressing when and how to request pre-hearing conferences or file motions; and outlining timelines and deadlines for various proceedings.

The Rules also promote consistency with the language contained in the SPPA and the Policy on Academic Appeals Within Divisions (“Policy”). Where possible, these Rules are written using plain language. However, some provisions mirror the language in the SPPA to preserve its legal meaning. To assist self-represented students and divisional representatives, the ADFG Office identified additional resources that will be created to go into effect at the same time as the Rules, on July 1, 2025. These resources include adding additional information to various sections of the website (e.g. FAQs and definitions), adding information to existing templates, as well as creating process documents. The goal of these resources is to provide plain language explanations.

Consultation Phase

Extensive consultation was conducted with current members of the AAC, consisting of the chairs, student governors and teaching staff governors. In addition, the following groups were also consulted: internal legal counsel; external legal counsel who frequently represent divisions; Downtown Legal Services, which often represents students; divisional representatives involved in academic appeals; as well as select student members of the Academic Board who are or were involved with quasi-judicial processes within the ADFG Office. Much of the consultation was focused on ensuring the language was understandable, which included requesting consultees to flag where additional explanations or resources would be helpful to those who appear before the AAC.

The consultation phase consisted of multiple rounds of meetings between the membership and the Senior Chair/ADFG Office, including meeting on an individual basis where necessary. After the feedback and initial consultation meetings, each AAC 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.

At the end of the 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 the members attended the meeting, where the Rules of Practice and Procedure were unanimously approved.

FINANCIAL IMPLICATIONS:

N/A

RECOMMENDATION:

For information.

DOCUMENTATION PROVIDED:

The *Rules of Practice and Procedure* of the Academic Appeals Committee