

FOR APPROVAL**PUBLIC****OPEN SESSION**

TO: Governing Council

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PRESENTER: See above.
CONTACT INFO:

DATE: May 13 for June 24, 2025

AGENDA ITEM: 9

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:

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

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

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

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

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 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 Resolved,

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*



UNIVERSITY OF
TORONTO

OFFICE OF THE GOVERNING COUNCIL

ACADEMIC APPEALS COMMITTEE

1. MEMBERSHIP

1.1 Composition¹

- at least 7 teaching staff members
- at least 3 students
- at least five appointed Chairs, all of whom shall be legally qualified, and one of whom shall be designated the Senior Chair

A majority of the members of the Academic Appeals Committee (the “Committee”) must be members of the Governing Council,² and such members must be a majority at all appeal hearings and meetings at which final decisions are taken on behalf of the Governing Council.

The duties of the Senior Chair shall be as indicated herein, and additionally, as specified by the Rules of Practice and Procedure (“Rules”) passed by the Committee itself.

When deemed necessary by the Senior Chair of the Committee, in order to satisfy the requirements of composition and quorum for an appeal hearing, additional members may be co-opted by the Senior Chair, from amongst members of the Governing Council. The Chair of the Academic Board must approve co-opted members from outside the Governing Council. The Chair of the Academic Board may also appoint for temporary periods an Interim Chair to chair individual hearings.

1.2 Term

- 1.2.1** Terms for teaching staff members and student members shall be for one year, commencing July 1, and may be renewed.
- 1.2.2** Terms for chairs shall be up to three years, commencing July 1, and may be renewed.

2. FUNCTION

¹ Pursuant to By-law Number 2 of the Governing Council, the Chairman and Vice-chairman of the Governing Council, the President and the Chancellor are *ex officio* voting members of the Committee. The Secretary of the Governing Council is an *ex officio* non-voting member of the Committee.

² Governing Council shall appoint Governing Council members of the Committee. Academic Board shall appoint non-Governing Council members of the Committee, including the Chairs. The Academic Board shall designate the Senior Chair.

- 2.1** To hear and determine appeals made by students against decisions of faculty, college or school councils (or committees thereof) in the application of academic regulations and requirements and to report its decisions, which shall be final, for information to the Academic Board. The name of the appellant shall be withheld in such reports.
- 2.2** To advise the Committee on Academic Policy and Programs from time to time on policy with respect to academic appeals throughout the University and on divisional appeal procedures.
- 2.3** To determine detailed procedures in its own operations and make rules governing the practice and procedure before it.

3. PROCEDURES

3.1 Appeal hearings

- 3.1.1** Appeals shall be heard by a panel of three Committee members provided that at least one student member and at least one teaching staff member is present, and that a majority of those present are members of Governing Council.
- 3.1.2** The appeal hearing shall be conducted by the Chair. The Chair shall be counted as one of the three required panel members. In the event that none of the Chairs is able to act, the Chair of the Academic Board may appoint an Interim Chair, who shall be legally qualified, to conduct a hearing. In that event, the Interim Chair shall be counted as one of the three required panel members.
- 3.1.3** Decisions with respect to the final disposition of an appeal will be carried by a simple majority of the panel hearing the appeal.
- 3.1.4** The Chair assigned to an appeal shall determine all questions of law. However, questions pertaining to the interpretation of University policies shall be determined by a simple majority of the panel hearing the appeal.
- 3.1.5** An appellant must have completed all levels of appeal open to them at the divisional level before filing a Notice of Appeal with the Committee.
- 3.1.6** An appeal to the Committee shall, except in exceptional circumstances, be commenced by filing a Notice of Appeal in accordance with the Rules of the Committee no later than 5:00 p.m. on the ninetieth (90th) calendar day after the date of the decision from which the appeal is being taken. Where this deadline falls on a day when the University is closed, the deadline shall be deemed to fall on the next regular business day of the University at 5:00 p.m.
- 3.1.7** The standard of review of an academic appeal is reasonableness.

- 3.1.8** The Chair may dismiss an appeal, after considering written submissions, on the grounds that it is not within the jurisdiction of the Committee.
- 3.1.9** Where an appeal has no reasonable prospects of success, the panel of the Committee hearing the appeal may dismiss the appeal (by unanimous decision) after considering the written submissions. Such appeals might be described in legal terms as frivolous or vexatious.
- 3.1.10** The *Statutory Powers Procedure Act*, R.S.O. 1990, c. 22, as amended, applies to the Committee in a manner that is consistent with the reasonableness standard of review (in view of the fact that this is the final appeal body). The Committee may modify its rules of practice and procedure provided that they continue to conform to the mandatory requirements of the *Act*. Modifications must be reported to the Academic Board for information.

3.2 Policy meetings

In this section, “Terms of Reference” means any document setting out the guidelines for the composition and procedures of a divisional academic appeal body or the Academic Appeals Committee of Governing Council.

- 3.2.1** The Committee meets, as deemed necessary by the Senior Chair or one of the other Chairs acting as their delegate, to consider proposals concerning policies and procedures governing academic appeals at the divisional level and at the Governing Council level.
- 3.2.2** Policy meetings may be called in the following circumstances:
- (i) where significant changes are proposed to the Terms of Reference of a divisional academic appeal body;
 - (ii) where a division intends to enact completely new Terms of Reference for a divisional academic appeal body where none had existed previously;
 - (iii) when proposed changes to the Terms of Reference of a divisional academic appeal body may be contrary to the *Guidelines for Academic Appeals Within Divisions*;
 - (iv) to consider or recommend changes to the Terms of Reference of the Academic Appeals Committee of Governing Council; or,
 - (v) when, in the opinion of the Senior Chair, or delegate, a policy meeting is required to deal with any other matter.
- 3.2.3** 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.

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

- (i) For items considered under 3.2.2(i), (ii) and (iii), the Committee shall report to the Committee on Academic Policy and Programs;
- (ii) For items considered under 3.2.2(iv), the Committee shall report to the Academic Board for information; and,³
- (iii) For all other items considered under 3.2.2(v), the Senior Chair or delegate, acting with the advice of the Secretary of the Governing Council, shall determine the appropriate body for reporting purposes.

May 22, 2002

Revision approved by the Governing Council:
June 24, 2025

³ Changes to the *Terms of Reference* are approved by the Governing Council on the recommendation of the Academic Board.



UNIVERSITY OF
TORONTO

OFFICE OF THE GOVERNING COUNCIL

TERMS OF REFERENCE ACADEMIC APPEALS COMMITTEE

1. MEMBERSHIP

1.1 Composition^{1*}

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- at least 3 students
- at least five appointed Chairs, all of whom shall be legally qualified, and one of whom shall be designated the Senior Chair

A majority of the members of the Academic Appeals Committee ~~[(the “Committee”)]~~ must be members of the Governing Council^{**},² and such members must be a majority at all appeal hearings and meetings at which final decisions are taken on behalf of the Governing Council. The duties of the Senior Chair shall be as indicated herein, and additionally, as specified by the Rules of Practice and Procedure (“Rules”) passed by the ~~Academic Appeals~~ Committee itself.

When deemed necessary by the Senior Chair of the Committee, in order to satisfy the requirements of composition and quorum for an appeal hearing, additional members may be co-opted by the Senior Chair, from amongst members of the Governing Council. The Chair of the Academic Board must approve co-opted members from outside the Governing Council. The Chair of the Academic Board may also appoint for temporary periods an Interim Chair to chair individual hearings.

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1.2.1 Terms for teaching staff members and student members shall be for one year, commencing July 1, and may be renewed.

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3.1.7 The standard of review of an academic appeal is reasonableness.

3.1.87 The Chair may ~~refuse to give formal hearing to dismiss~~ an appeal, after considering written submissions, on the grounds that it is not within the jurisdiction of the Committee.

3.1.98 Where an appeal has no reasonable prospects of success, ~~The panel of the Committee hearing an the appeal may dismiss an the appeal (by unanimous decision) after considering the written submissions, on the grounds that there is no real case for an appeal.~~ Such appeals might be described in legal terms as frivolous or vexatious.

3.1.109 The ~~procedures for hearings required by the Statutory Powers Procedure Act, R.S.O. 1990, c. 22, as amended, are followed~~ applies to the Committee in a manner that is consistent with the reasonableness standard of review (in view of the fact that this is the final appeal body). The Committee may modify ~~these its~~ rules of practice and procedure provided that they continue to conform to the minimum mandatory requirements of the *Act*. ~~Any such Modification~~ changes must be reported to the Academic Board for information.

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- (iii) For all other items considered under 3.2.2(v), the Senior Chair or delegate, acting with the advice of the Secretary of the Governing Council, shall determine the appropriate body for reporting purposes.

May 22, 2002

Revision approved by the Governing Council:

~~December 12~~ June 24, 2025

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