

AURORA COLLEGE

POLICY

Aurora College staff/students have the right to appeal decisions regarding and based upon College Policy E.07.

PRINCIPLES

1. Aurora College recognizes that a student/staff member has a right to appeal the President's decision based upon College Policy E.07.
2. The College believes that the process must include an impartial appeal board.

PROCEDURES

BEGINNING OF THE ACADEMIC YEAR:

1. The President will establish a ten member College Appeal Board.
 - i. On the invitation of the President, and based on general good judgement and fairness,
 - Each Campus Region from its constituency shall nominate a representative from each of the following:
 - student associations
 - academic staff
 - administrative staff
 - ARI shall nominate one representative
 - ii. The President shall circulate all the names of those persons nominated to their respective constituencies for comment.

ONSET OF AN APPEAL:

1. The appellant must, within five (5) working days of receiving the decision of the President in regards to the harassment complaint, discuss the nature of a proposed appeal with his/her immediate supervisor, Director or President in an attempt to resolve the matter.
2. The individual(s) wishing to appeal a decision will make a request in writing to the President within 20 (twenty) days of receiving the written notification of the decision from the President.

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3. Upon receipt of a request for an appeal the President will appoint five (5) members of the Appeal Board to sit on the appeal hearing requested as follows:
 - one (1) student
 - one (1) academic staff
 - one (1) administrative staff
 - one (1) additional member, who will be chairperson
 - a lawyer.
4. Either party who objects to the appointment of any Board Member must state the grounds for objection in writing.
5. The appellant shall be heard by the Appeal Board at a mutually agreed upon location. An appeal shall not be a new trial but in circumstances which it considers to be exceptional, the Appeal Board may allow the introduction of further evidence on the appeal which may include witness testimony which was not available before.
6. The hearing will be held according to the guidelines as set out in Appendix E.08. The members of the Appeal Board will be released from duty/class for the duration of the Appeal Board hearing.
7. Within ten (10) days of conclusion of the hearing, the Appeal Board shall submit a written decision to the President regarding whether or not the decision is upheld.
8. The decision of the Appeal Board shall be final.
9. Should the appellant make an appeal through legal channels or the Collective Agreement, proceedings under this Policy shall be suspended until the other proceedings are discontinued or brought to a conclusion. Recommendations shall be dealt in accordance with established policies and procedures and by the terms of existing contracts of employment or collective agreements.

NOTE:

1. It is the responsibility of the student to ensure that course projects and assignments are completed so that course credit is not jeopardized in the event that the student will be reinstated.
2. The College will provide academic support if required.

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APPENDIX E.08

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STAFF/STUDENT APPEALS (HARASSMENT)

GUIDELINES FOR APPEAL BOARD MEMBERS

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INTRODUCTION

As outlined in the Aurora College Policy and Procedures Manual, an Appeal Process “has been established for student/staff to appeal decisions regarding and based upon College Policy E.07”

The purpose of this guidebook is to clarify – both through examples and explanations – the appeal procedures as laid down by the Aurora College Board of Governors. The guidebook provides a framework which promotes consistency and fairness in the appeal process.

All persons who have agreed to participate as volunteers on an Appeal Board should familiarize themselves with the contents of this guidebook.

Many of the guidelines and recommended procedures in this package have been incorporated from staff and student suggestions. Accordingly, further suggestions regarding this manual, or the Appeal Policy in general, shall be forwarded to the Director, Policy and Programs.

Every effort has been made to ensure that the procedures described within are consistent with those outlined in **Aurora College Policy and Procedures Manual**. However, if an apparent conflict arises, interpretation of procedures in the **Aurora College Policy and Procedures Manual** shall prevail.

1. PREPARATION FOR THE APPEAL

- (1) Prior to an appeal, the President will establish a College Appeal Board to hear the appeal.
 - i) The President shall invite students, academic staff and administrative staff to nominate (3) three members on the basis of their general good judgement and fairness.
 - ii) The President shall circulate to the appropriate constituencies all the names of those persons nominated to be their representatives, requesting comment re the nominations.
 - iii) The President will appoint five (5) members to the Appeal Board as follows:

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- one (1) full-time student
 - one (1) academic staff
 - one (1) administrative staff
 - one (1) additional member, who will be chairperson
 - a lawyer.
- (2) Before agreeing to sit on a particular appeal, each prospective committee member shall be informed of the appealing student/staff name and program to insure that no conflict of interest exists. If a prospective appeal board member perceives a conflict, or if for any reason doubts his/her ability to act objectively on the appeal in question, s/he shall decline the President's request to sit on the Appeal Board.
- (3) Prior to the appeal hearing, the Director will ensure that both parties are provided with all relevant information, including names of any witnesses, that will be considered in arriving at the decision of the Appeal Board.
- (4) Appeal Board members are reminded that all documentation related to the appeal, and all information from discussions and presentations which take place in the appeal, are strictly confidential. No member of the Appeal Board shall discuss matters regarding the appeal with other staff or students.

2. THE APPEAL

The actual appeal is a three step process consisting of the following:

2.1 THE APPEAL – STEP 1

- (1) The five Appeal Board members shall meet in the room reserved for the appeal and carefully review the documentation.
- (2) Appeal Board members are required to discuss the documentation with each other.
- (3) All Appeal Board members should make note of areas in the documentation that may require explanation or further clarification from the appellant and/or the respondent.
- (4) When all Appeal Board members are satisfied that they have thoroughly read the documentation and have noted items that require explanation or clarification, the Appeal Board Chairperson shall invite the appellant **and** his/her spokesperson to join

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the Appeal Board members in the appeal room.

NOTE 1 – After introducing him/herself to the appellant, the Board Chairperson should conduct introductions, as required, to ensure that the appellant/respondent is aware of the name and role of all participants in the appeal process.

NOTE II – The concept of an appellant ‘spokesperson’ is not addressed in the Aurora College Policy. In the interest of fairness and consistency, any appellant/respondent wishing to bring **one** ‘spokesperson’ shall be permitted to do so. Either the appellant/respondent or the spokesperson will speak to the issue.

2.2 THE APPEAL – STEP II

- (1) **With all parties present**, the Chairperson should ask the appellant/respondent to provide a historical recap of the occurrence(s) which led to the decision of the situation. Appeal Board members are encouraged to seek clarification as required, including relevant witness testimony.
- (2) After the appellant has completed his/her presentation, the respondent will be asked to present his/her account of the occurrence(s) leading up to the decision of the situation. Witness testimony may be introduced.

NOTE III - If the appellant/respondent fails to attend the appeal, the appeal shall continue in his/her absence. The Aurora College Policy states that an appellant/respondent will be given an opportunity to make a presentation to the committee. Providing that the appellant/respondent was aware of the place and time of the appeal, his/her failure to attend will not constitute a denied “opportunity” if the Appeal Board Chairperson has not received prior notification from the student of his/her inability to attend and a hearing date has not been rescheduled.

- (3) After the appellant/respondent presentation, the Appeal Board members should seek clarification on any issue relevant to the appeal. Questions may be directed at the appellant/respondent or either spokesperson.

NOTE IV – The Appeal Board Chairperson shall ensure that all questions and enquiries from the Appeal Board members are relevant to the appeal.

- (4) Prior to completion of this step in the appeal, the Appeal Board Chairperson will provide an opportunity for the appellant/respondent or either spokesperson to explain

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why s/he believes that the decision was not justified. Again, the Appeal Board members are encouraged to ask questions relevant to the appeal.

- (5) When the Appeal Board members indicate that they have no further questions the Appeal Board Chairperson will advise the appellant/respondent of the day and time that a written decision from the Appeal Board can be obtained from the Registrar. The Appeal Board Chairperson and the Registrar will have previously arranged a day and time (not to exceed 10 days after the appeal hearing) at which time the Appeal Board's written decision will be available to the appellant/respondent.
- (6) At that time the appellant and the respondent shall be dismissed from the appeal.

NOTE V – The appellant/respondent and/or spokesperson, and witnesses, if applicable, should enter the appeal room at the beginning of step II and leave the appeal presentation at the end of Step II. If the appellant/respondent has been accompanied by a 'spokesperson', and/or witnesses, s/he/they must enter and leave the appeal proceedings with the appellant/respondent.

2.3 THE APPEAL – STEP III

- (1) After the appellant and respondent have been dismissed from the appeal room, the Appeal Board members shall discuss the particulars of the appeal and come to a decision.
- (2) The Appeal Board's decision will be to 'uphold the decision' or to 'overturn' the decision.

NOTE VI – While a unanimous decision (5-0) by the Appeal Board is desirable, a majority decision (3-2 or 4-1) is acceptable.

- (3) In deciding on the outcome of an appeal, the Appeal Board shall consider the extent that 'due process' was followed.
- (4) In examining the 'process', the following shall be considered:
 - (a) Was the appellant/respondent initially advised of the relevant Aurora College Policies?

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- (b) Was the appellant/respondent warned in writing that further violation of the problem(s) in question could result in due process. (serious infractions may legitimately result in dismissal without prior warning).
- (c) Was the appellant/respondent properly advised of the decision?
- (d) Is the Director's 'finding of fact report' in respect of the alleged incident(s) based on evidence brought before him/her?
- (e) Does the Director's 'finding of fact report' in respect of the alleged incident(s) support breach(es) of the relevant policy?

2.4 THE APPEAL – STEP IV

The Appeal Committee member will meet to decide:

- (a) that they are satisfied that the student committed the violation for which s/he is being disciplined;
- (b) (i) that they are satisfied that the 'duty of fairness' procedure has been followed and that the decision to discipline the student should be upheld; or
(ii) that they are unsatisfied that the 'duty of fairness' procedure has been followed and that the decision to discipline the student should be overturned.

NOTE VII – The intent of the Harassment Appeal process is not to provide another chance to correct unacceptable behaviours, actions, or violations. The role of the Appeal Board is to assess whether the 'duty of fairness' procedure has been applied to the discipline process and whether the decision was made on findings of fact that were supported by the evidence. In the event that the Appeal Board decides to overturn the decision, an indication that the 'duty of fairness' procedure was not followed or that the evidence did not support the decision must be noted.

3. POST-APPEAL PROCEDURES

- (1) The Appeal Board Chairperson will notify the appellant/respondent in writing of the final decision with copies to the Registrar and appropriate department(s).

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- (2) The Appeal Board Chairman will take responsibility to return to the President all copies of documentation related to the appeal.
- (3) To avoid any possible confrontations, and to ensure dissemination through appropriate channels, Appeal Board members shall not divulge the Appeal Board's decision to the appellant/respondent. As previously noted, the appellant/respondent will be advised, in writing, within ten (10) days by the Chairperson of the Appeal Board's decision.