
NORTHERN ONTARIO SCHOOL OF MEDICINE
JOINT SENATE COMMITTEE FOR NOSM

Report to Lakehead and Laurentian University Senates

From: Joint Senate Committee for NOSM

March 4, 2014

The Chair of the Joint Senate Committee is Dr. Sheila Cote-Meek.

The Joint Senate Committee for NOSM met on March 3, 2014, the members approved the following for submission to the Lakehead and Laurentian University Senates:

Recommendation #1: NOSM Policy Regarding Academic Appeals

Action/Motion:

MOVED that the Senate approve the NOSM Policy Regarding Academic Appeals, effective May 1, 2014 as presented.

Background/Rationale:

The Appeals Policy and Process Working Group (APPWG) was struck is an ad hoc working group of the Governance and Nominations Committee of the Academic Council constituted on a time limited basis to oversee and coordinate the review of the role and function of the Appeals Committee of the Academic Council and bring forward any recommendations for revisions to documents related to academic and non-academic learner appeals.

After an extensive review, discussions with various programs and within the committee membership itself, it was the recommendation of the APPWG and the GNC committee to propose this new global policy for the School, with a scheduled effective date of May 1, 2014, to allow for the associated programs to make the necessary changes (if any) to policies, procedures or related documents as well to allow for any provisions within this NOSM Policy Regarding Academic Appeals to be adapted prior to implementation.

The effective date has been set in advance to allow for the anticipated changes to the UME Student Promotion and Appeals Policy, Student Code of Conduct and the Code of Conduct Review Committee Terms of Reference, the PGE Appeals Policy, the NODIP Policy, the Joint Senate Committee Terms of Reference and any other program that has within its purview the requirement for an appeal to be heard by the Academic Council Appeals Committee.

The Academic Council approved the Academic Council Appeals Committee revised Terms of Reference. The full document can be found here:

http://www.nosm.ca/uploadedFiles/About_Us/Governance/Academic_Council/Academic%20Council%20Appeals%20Committee%20Terms%20of%20Reference.pdf

The membership of said committee is as follows:

Membership

The membership of the committee will consist of four (4) elected members from Academic Council and one (1) learner. The process in determining this membership is described below:

- The four (4) members that will hear the appeal will be appointed from a pool of ten (10) elected members from Academic council who have agreed to serve on the committee should an appeal be presented. The rationale for having a pool of elected members is to ensure an expeditious hearing of the appeal while being able to select appropriate members should conflicts arise or should program specialty be required in the composition of the committee.
- The one (1) learner will be appointed from a program other than the one in which the appeal is being heard (e.g. a learner will be chosen from the Dietetic program if the appeals originates from the Medical program and vice versa).

The Committee is intended to be representative of the School aimed at balanced consideration of the appeal. The membership should provide for a diverse representation when available. The Chair of the Committee shall take appropriate action to ensure such diversity on the Committee.



NOSM Policy Regarding Academic Appeals

Approved By: Lakehead and Laurentian University Senates

Responsible Office(s): Academic Council

Responsible Officer(s): Chair and Vice Chair of Academic Council
Secretary of Academic Council
Associated programs

Effective date: May 1, 2014

Supersedes: none

Revised: n/a

1.0 Definitions

For the purposes of this document, the following definitions will apply

“Appellant” a learner who appeals a decision

“Joint Senate Committee (JSC)” the Joint Senate Committee for NOSM “JSC” has been duly constituted by both Senates to review all academic recommendations from the Academic Council and make recommendations to both Senates for their approval. The Joint Senate Committee also has the jurisdiction to hear Appeals as outlined in their terms of reference.

“Learner” MD students, postgraduate residents (trainees), dietetic interns and/or any other learner in a Program governed by Academic Council

“Natural Justice” ‘Natural justice’ was developed in England in the 19th century to define the rules for decision-making. Having evolved overtime, the concept is now often described as ‘procedural fairness’ or just ‘fairness’. As a result, the terms natural justice, procedural fairness, and fairness are often used interchangeably.

The two basic components of natural justice are:

- 1) That the person affected by the decision:
 - Will receive notice that his or her case is being considered
 - Will be provided with the specific aspects of the case that are under consideration so that an explanation or response can be prepared
 - Will be provided with the opportunity to make submissions (written or oral) relating to the case
- 2) That the decision-maker(s) will be unbiased.

To be unbiased is to be and to be seen as objective of impartial about the matter you are considering. The best way for decision-makers to be unbiased is:

- To understand what bias is (i.e. if you have a firmly held, favourable or negative opinion about a matter or an individual). If you cannot be objective about a matter that is within your purview, you should remove yourself from the decision-making process.
- If you are part of a committee of decision-makers, each member must feel free to make his or her own decision. Therefore, each member of the committee must be free of influence from other committee members, from outside third parties, or from the influence of those who have designated them as decision-makers.

- Sometimes bias is alleged because it is believed the decision-maker knows too much about the matter under scrutiny. A well-informed decision-maker is not biased if she or he has an open mind and is open to persuasion by the information provided through the decision-making process.

“It is my firm belief that if all decision-makers abided by these basic principles when forming conclusions and making decisions there would be very few complaints about the fairness of decisions other than from those for whom any answer other than the one they want is unacceptable.”

Text courtesy of Nora Farrell, Ombudsperson, Ryerson University

“Notice” means any notice to be sent by any party under this policy to another party shall be sufficiently given if sent by email. Any notice duly sent in this manner shall be deemed delivered on the day next following the date of the sending of the email.

“Respondent” a person or persons who respond or make a reply

“Working Day” means a day in which the Northern Ontario School of Medicine (NOSM) offices are open for business from Monday to Friday, excluding statutory holidays and any other day that the Northern Ontario School of Medicine is closed.

2.0 Purpose

The Academic Council Appeals Committee (ACAC) will hear appeals based on an academic decision rendered by any Northern Ontario School of Medicine program or committee under the purview of the Academic Council making a promotion, withdrawal decision or finding of unprofessional behaviour.

A NOSM learner may first appeal to the Academic Council Appeals Committee (ACAC) if the matter relates directly to the course of study/training within the Program, and corresponds with the following:

1. Promotion and/or withdrawal from the Program

The learner that has formally requested a reappraisal of a decision made regarding promotion or withdrawal from the program and is not accepting of the decision at the previous level.

2. Postgraduate Appeal

The learner that has formally requested a reappraisal of a decision made by the Postgraduate Medical Education Committee (PGEC) and is not accepting the decision at the previous level.

Note: In a Postgraduate Appeal the ACAC is the final approving body.

3. Professionalism

The learner that has formally requested a reappraisal of a decision made regarding Professionalism and is not accepting of the decision at the previous level.

3.0 Process

3.1 Grounds for an Appeal

A decision may be appealed only when a learner is able to establish:

- a) There is evidence of a factual error or procedural irregularity in the consideration of the appeal at a previous level of decision; and
- b) that the previous body did not adhere to the principles' of natural justice during the process..

3.2 Written Appeal to the Academic Council Appeals Committee

An appeal to the ACAC may be made only after a decision has been reached at the immediately preceding decision and/or level of appeal and communicated to the learner. The preceding decision must be included in any appeal to the ACAC.

A written submission requesting a hearing by the ACAC must be made on the "Request for Appeal Form" and submitted to the Chair of the ACAC c/o the Secretary of the Academic Council within 10 working days of receipt of the notice at the previous level.

If written submission to the ACAC is incomplete or is not made within this 10 working day period, in the absence of reasonable cause, the decision of the relevant lower level decision and/or appeal is final and binding and no further appeals shall be considered.

A submission that is outside the established time limits must include written reasons for the delay.

Reasonable cause for delay of proceedings may be found by the Chair of the ACAC to exist if the delay resulted from established incidents involving illness, accident, serious personal problems, or other circumstances which are beyond the control of the learner, trainee or faculty member and which, in the opinion of the Chair of the ACAC, are a substantial contributing factor to the delay.

The Chair of the Academic Council Appeals Committee and/or the Secretary of the Academic Council will contact the appellant within five (5) working days of reception of the appeal to confirm receipt of the appeal and provide hearing dates and additional information at that time.

3.3 Academic Council Appeals Committee Hearing and Procedures

The composition of the ACAC is outlined in the Academic Council Appeals Committee Terms of Reference.

Upon receipt of the Appellant's request for appeal, a copy of the appellant's written submission shall be sent by the ACAC Chair to the Chair of the relevant program.

A hearing shall be held within 20 working days following the receipt of the Appellant's Request for Appeal form. The Chair of the ACAC shall notify the appellant, the respondent(s) and all other related bodies in writing of the location, date and time. .

The Appellant must confirm attendance to the hearing with the Chair of the ACAC within two (2) working days of receipt of confirmation of the date of the hearing.

The Chair of the ACAC must be notified of any issues with respect to the proposed date for the hearing, and the individuals must notify the Chair of the ACAC, by contacting the Secretary of the Academic Council as soon as possible. Every reasonable effort will be made to reschedule to a date with reasonable lead time. The ACAC may proceed with the hearing in the absence of either of the parties involved or if there is delay in the proceedings without reasonable cause.

Hearings shall be closed (i.e., conducted *in camera*) and can be accommodated by video and/or telecommunications. The appeal hearing may be recorded and minutes will be taken.

(1) The order of proceedings during a hearing is:

- a) Introduction of ACAC members, the appellant, and respondent(s), recital of the decision being appealed, the redress being sought, and summary review of documentation provided by both the appellant and the respondent.
- b) Where either party has failed to appear, the ACAC shall proceed to consider the appeal on its merits.
- c) The ACAC shall hear and determine each case on the basis of the documentation and written argument submitted and, where one or both parties appear in person or with a representative, on the basis of oral clarification at the hearing. Such oral presentation shall address only those matters raised in the parties' written submissions previously filed.

(2) The following process at the hearing shall apply:

- a) Opening statements by the Appellant to establish the grounds for the appeal.
- b) Opening statements by the Respondent.
- c) Examination of the Appellant by the ACAC to clarify any points raised by his/her opening statement.
- d) Calling of witness(es), if any, by the Appellant, cross-examination, re-examination and examination of witness(es) by the ACAC to clarify any point raised in the evidence.
- e) Examination of the Respondent by the ACAC to clarify any points raised by his/her statement.
- f) Calling of witness(es), if any, by the Respondent, cross-examination, re-examination and examination of witness(es) by the ACAC to clarify any point raised in the evidence.
- g) Reply evidence, if any, on behalf of Appellant, including calling of witnesses by the learner, cross-examination, re-examination and examination of witnesses by the ACAC to clarify any point raised in their evidence. Such evidence in reply shall only be for the purpose of contradicting or qualifying new facts or issues raised in the Respondent's evidence. Summary remarks by the Appellant. Summary remarks by the Respondent.
- h) Reply, if any, by the Appellant to summary remarks by the Respondent(s) (evaluator(s)).

The Chair of the ACAC shall have the right to alter this order and process in the interest and fairness of any or all parties.

The Chair of the ACAC may consider and grant a recess or adjournment at any time during the hearing to ensure a fair hearing.

Persons appearing before the ACAC may be required to give evidence under affirmation or oath.

The Chair of the ACAC shall have the discretion to limit the testimony and questioning of witnesses to those matters it considers relevant to the disposition of the case.

The parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the ACAC.

The ACAC shall have the power to request written or documentary evidence by the parties or by any other source.

The Chair of the ACAC has the power to rule on the admissibility of evidence.

4.0 Notice of Decision

At the conclusion of the hearing, the ACAC will deliberate in closed session for the purpose of arriving at a decision. Within five (5) working days of the conclusion of the hearing the Chair of the ACAC shall supply a written report of its decision to the Appellant, the Respondent, the appropriate Associate Dean, the Dean of the Medical School and to other individuals as the ACAC deems appropriate and/or necessary.

The written report of the ACAC must include

- a. the membership of the Appeals Committee
- b. the background of the appeal
- c. a summary of the case of the appellant and the respondent
- d. the findings of fact
- e. the decision, recommendations (if any) and the reasons for its decision.

5.0 Further Appeals

With regards to an appeal related to a program whose credentials are not granted under the authority of Lakehead University or Laurentian University, the decision of the ACAC in this regard shall be final and binding.

For learners whose credentials are granted under the authority of Lakehead University or Laurentian University, in the event that the ACAC denies the appeal, the Appellant, may submit a new Request for Appeal application to be heard by the Joint Senate Committee for NOSM (JSC) and follow the procedures set out in the Joint Senate Committee Appeals Process.

6.0 Conflict of Interest

The issue of impartiality during the Appeal process is considered crucial. Therefore, a member of the Committee will be excluded from the appeal hearing(s) when:

- (1) that member has any emotional or financial interest in the outcome of the appeal hearing;
- (2) that member has any affiliation with either party of such a nature or proximity as to give the appearance of partiality or bias;
- (3) that member has been privy to information about the case obtained by means other than through the presentation of evidence at the appeal hearing or in documents filed by the parties.

Should a Committee member discover that he or she is in one of the positions described above; the member should inform the Chair and not be present at the hearings or in the deliberations.

7.0 Related Policies/References

- Request for Appeal Form
- Appeal Process Overview Chart

8.0 Getting Help

Learners are encouraged to contact the Learner Affairs office.

Queries regarding interpretations of this document should be directed to:

Governance Office – Office of the Dean
Northern Ontario School of Medicine
(705) 662-7206

DO NOT REMOVE THIS VERSION RECORD FROM THIS DOCUMENT		
Version	Date	Authors/Comments
V1.0	October 25, 2013	Approval at Academic Council with effective date May 1, 2014

Stage 1 - Previous level Decision has been rendered and Determination of Grounds for Appeal
 Learner decides to appeal decision by committee (any committee under the purview of Academic Council making a promotion/withdrawal decision or finding of unprofessional behaviour)

Stage 2 - Written Appeal to the Academic Council Appeals Committee
 Learner must submit a written appeal [on the Request for Appeal form] to the Chair of the Academic Council Appeals Committee within **10 Days** of receipt of the decision at the previous level.

Stage 3 - Academic Council Appeals Committee Hearing and Procedures
 Hearing to be set within **20 days** of the receipt of the Request for Appeal. ACAC hearing and procedures as set out in Policy.

Appeal upheld
 See Policy & Recommendations from Chair

Appeal denied

Stage 4 - Joint Senate Committee for NOSM Final Hearing and Procedures
 Learner submits written new Request for Appeal to the JSC - Must be filed within **10 Days** of receipt of the decision at the previous level

JSC Subcommittee hearing
 The JSC Chair shall set a hearing and notice with procedures as set out in Policy

Appeal upheld
 See Policy & Recommendations from Chair

Appeal denied
 The decision of the JSC in this regard shall be final and binding to all parties involved

The following instructions are excerpted from the **NOSM Policy Regarding Academic Appeals** which can be found on the website or by contacting your Program.

This Chart outline does not include all that you need to know about the process or the specifics within the policy. Please review the policy and if necessary contact your Program and/or NOSM Learner Affairs.

For information on the policy, please contact the Secretary to Academic Council
 gkennedy@nosm.ca

NOSM – Northern Ontario School of Medicine
 ACAC – Appeals Committee of the Academic Council
 JSC – Joint Senate Committee for NOSM

Recommendation #2: NOSM Undergraduate Medical Education (UME) Academic Appeals Policy

Action/Motion:

MOVED that the Senate approve the NOSM Undergraduate Medical Education (UME) Appeals Policy (formerly known as "Student Promotion and Appeals Policy") as presented.

Background/Rationale:

This document has undergone revision to align and ensure consistency with the direction Academic Council has taken in the NOSM Policy regarding Academic Appeals, approved by AC on October 25, 2013 and presented to the JSC for approval.

The document was formerly called "Student Promotion and Appeals Policy". This is a document that has historically required approval by Academic Council, the Joint Senate and the Senates. The current Senates approved version was created in May 2009 so substantive revisions have been necessary to update from then and to ensure alignment with the October 25, 2013 version of the NOSM Policy regarding Academic Appeals.

Briefly, the major changes are:

1. The paragraphs around setting standards for promotion and promotion decisions per se are removed, as these are already part of the SAPC Regulations themselves, and duplication here is undesirable.
2. Section 3 on "Appeals of a Component of a Theme Grade" has been expanded to include program requirements not falling under the auspices of a particular Theme. The relevant Phase Chair (as the equivalent of a Theme Chair) has been identified as the person adjudicating such decisions.
3. The part of Section 3 indicating the involvement of a Division Head in appeals has been stricken.
4. Section 4 makes provision for a student to appeal a decision of a Theme/Phase Chair under Section 3 to a subcommittee of the SAPC. With respect to these kinds of matters, the decision of the SAPC Subcommittee is final and binding, with no further appeal.
5. Section 5 directs a student who has not been promoted to appeal such a decision to the Academic Council Appeals Committee. The SAPC will no longer hear appeals of its own promotion decisions.
6. The old Section 6, defining the procedures for a JSC appeal, has been stricken. The JSC will have its own Appeals Policy

IMPLICATIONS:

Academic Council approval is needed so that this Policy can be in place for implementation of the NOSM Policy regarding Academic Appeals on May 1, 2014 and the beginning of the next academic year which begins (for Year 4) on May 12, 2014.

CONSULTATION:

There has been broad consultation on these revisions at both the Student Assessment and Promotion Committee (SAPC) and UME Committee levels. Learners, Theme Committee Chairs, Faculty members are represented on both of these Committees. This document has been approved at both the SAPC and at UMEC. It was reviewed by the Governance and Nominations Committee and approved at the January 30, 2014 Academic Council.

Attached:

Undergraduate Medical Education (UME) Appeals Policy clean version for approval
Undergraduate Medical Education (UME) Appeals Policy black-lined version for information only
(separate document from package)



Northern Ontario
School of Medicine
École de médecine
du Nord de l'Ontario
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L'Université Laurentienne

UME ACADEMIC APPEALS POLICY

Responsible Office(s):	UME
Responsible Officer(s):	Associate Dean UME Director, Assessment and Program Evaluation
Version:	4.0 (pending)
Approved by:	SAPC 12 December 2013 UMEC 09 January 2014 AC (pending) Joint Senate (pending) Lakehead Senate (pending) Laurentian Senate (pending)

1. INTRODUCTION

- 1.1 Subject to the approval of the Senates of Lakehead University and Laurentian University, the overall policy on assessment and the planning of programs of study leading to the MD degree is the responsibility of the Undergraduate Medical Education Committee (UMEC), which is a standing committee of the Northern Ontario School of Medicine (NOSM) Academic Council.
- 1.2 The Student Assessment & Promotion Committee (SAPC), a standing committee of the UMEC, in consultation with the Theme Committees, Phase Committees, and the Office of Learner Affairs, will throughout the academic year monitor the progress of students and, where required, provide guidance and direction for the students to assist them in attaining promotion to the next level of their medical school education.

2. APPEALS OF A COMPONENT OF A THEME GRADE OR OTHER ASSESSMENT

- 2.1 A student requesting a review of a grade or other assessment must initiate the request for informal review in writing within ten (10) working days of receiving the grade.
 - 2.1.1 Where the grade or assessment being appealed is part of the Theme Requirements in the Promotion & Remediation Plan, the request for appeal should be made to the Chair of the appropriate Theme Committee. Where the grade or assessment being appealed is listed as part of the Program Requirements in the Promotion & Remediation Plan, the request for appeal should be made to the Chair of the appropriate Phase Committee. If the Theme or Phase Chair is the faculty member who provided the grade or assessment that is being appealed, the request for appeal should be made to the Director of Assessment & Program Evaluation.
 - 2.1.2 The person to whom the appeal is directed in 2.1.1 may delegate the adjudication of the appeal to one or more members of the appropriate Theme/Phase Committee.
- 2.2 The adjudicator(s) (ie/ the Chair, Director, or delegates as identified in 2.1.2) will meet with the student to hear and respond to any concerns raised by the student. This meeting will allow dialogue between the adjudicator(s) and the student concerning the student's fulfillment of the Theme or Program requirements.
 - 2.2.1 At their discretion, the adjudicator(s) may choose to meet with the faculty member(s) responsible for the grade or assessment being contested to convey the concerns raised by the student, and to hear and respond to the faculty member(s)'s reply to the student's concern.
- 2.3 After conferring with the student and faculty member (if required), the adjudicator(s) shall make one of the following determinations:

- (a) The original assessment of the student shall stand;
 - (b) The assessment of the student shall be altered in some way (for example, a specific comment stricken) without overturning the pass/fail determination;
 - (c) The pass/fail determination shall be altered.
- 2.4 The adjudicator(s) shall advise the student in writing as to the change, if any, in its decision concerning the grade or assessment within four (4) working days of their meeting, with copies to the Director of Assessment & Program Evaluation, the SAPC Chair, the Associate Dean – UME, the Assistant Dean – Learner Affairs, and other responsible parties as appropriate.

3. APPEALS TO THE STUDENT ASSESSMENT AND PROMOTION COMMITTEE (SAPC)

- 3.1 If the student does not agree with the decision after an appeal under Section 2, the student shall have the right, within ten (10) working days of receiving notice of the decision to request a review of the decision by the SAPC in a formal hearing. When submitting the request to the SAPC Chair, the student shall specify the grounds for the review and shall provide the SAPC with all necessary supporting documents.
- 3.2 Within seven (7) working days of receiving the notice from the student requesting a formal review, the SAPC shall notify the student in writing of the date for the hearing. If the student has any problems with respect to the proposed date for the hearing, the student shall notify the Chair of the SAPC as soon as possible thereafter and every reasonable effort will be made to re-schedule the hearing to a date with a reasonable lead time. All hearings can be accommodated by video and/or telecommunication. In addition, every reasonable effort shall be made by both parties to have the hearing held within ten (10) working days of the date of receipt of the written notice from the student requesting the review hearing.
- 3.3 The review hearing shall be conducted by a subcommittee of the SAPC duly established for this purpose, comprised of 3 faculty members of the SAPC not involved with the previous deliberations under Section 3, Chaired by the SAPC Chair or their designate.
- 3.4 The following procedure shall apply with respect to the hearing before the SAPC subcommittee:
- a) The hearing shall commence on the date and time appointed for the hearing;
 - b) The student will make an opening statement containing a brief description of the student's grounds for appeal including what the student believes was unfair, unjust or unreasonable about the decision of the Theme Chair or Phase Committee Chair and what remedy the student seeks.
 - c) The student shall have the right to supplement the opening statement with any or all of the following:
 - i. oral testimony of the student;
 - ii. oral testimony of any witness supporting the position of the student; and
 - iii. documents or other written evidence in support of this testimony.

- d) The Respondent (the adjudicator who made the decision in Section 2) and the SAPC Subcommittee Members will have the right to question the student and/or the student's witnesses at the close of each person's testimony.
 - e) Following the completion of the student's case, the Respondent shall present its case. The Respondent shall complete an opening statement containing a brief reply to the student's claims and the main arguments justifying the action or decision that was made. In support of its position, the Respondent may submit any or all of the following:
 - i. oral testimony of a representative of the Respondent;
 - ii. oral testimony of any witnesses selected by the Respondent; and
 - iii. documents or other written evidence in support of this testimony.
 - f) The student and the SAPC Subcommittee members will have the right to question the Respondent's witnesses at the close of each person's testimony.
 - g) The student shall have the right to offer testimony or other evidence in reply to the issues raised in the Respondent's case.
 - h) After the testimony of each witness, the SAPC Subcommittee members may, in addition to asking questions of the witness as noted above, request copies of such documents mentioned in the testimony as deemed appropriate.
 - i) At the conclusion of the evidence, the parties shall be entitled to make closing arguments and to summarize briefly the main points of their respective cases in the following order:
 - A. student;
 - B. respondent; and
 - C. student.
- 3.5 Parties are responsible for producing their own witnesses and for paying any costs associated with their appearance before the SAPC Subcommittee.
- 3.6 The Subcommittee Chair shall have the following discretion with respect to the conduct of the hearing:
- a) To alter the order of the proceedings in the interests and fairness to any or all of the parties.
 - b) To consider and grant a recess or an adjournment at any time during the hearing to ensure a fair hearing.
 - c) To require that a person appearing before the SAPC Subcommittee may be required to give evidence under affirmation or oath.
 - d) To limit the testimony in questioning of witnesses to those matters it considers relevant to the disposition of the case.
 - e) To require production of written or documentary evidence by the parties or by any other source.

- f) To rule on the admissibility of evidence.
 - g) To order that the hearing before the SAPC Subcommittee shall be conducted by video or teleconferencing to accommodate the requirements of the student or those of the members of the SAPC Subcommittee, utilizing the video or teleconferencing facilities available at the Sudbury and Thunder Bay campuses of NOSM or other NOSM sites.
- 3.7 Following the formal hearing, the SAPC Subcommittee shall deliberate in a closed session and shall reach a decision.
- 3.8 The SAPC Subcommittee shall supply a written report of its decision to the student, the Respondent, and to such other individuals as the SAPC deems appropriate and/or necessary. The report shall include:
- i. the membership of the tribunal;
 - ii. the background of the appeal;
 - iii. a summary of the case of the student and the Respondent;
 - iv. the SAPC's findings of fact;
 - v. the SAPC's decision and the reasons for its decision.

The SAPC will record the process by which the hearing was conducted.

- 3.9 The decision of the SAPC in regard to Theme or Program requirements shall be final and binding.

4. APPEALS OF A PROMOTION DECISION

- 4.1 For promotion at the end of the academic year, a student must have:
- a) completed the course/theme work as described in the current regulations of NOSM for the year of the program and passed all prescribed academic and professional examinations; and
 - b) exhibited a strong sense of professionalism in personal conduct in relationships with peers, patients, hospital personnel, faculty and staff.

The SAPC will decide if a student has met the requirements for promotion as defined in the Student Assessment & Promotion Regulations, and communicate the decision to the student.

- 4.2 Where a student has received notice from the SAPC that the student has failed to meet the requirements for promotion, the student shall have the right to meet with the Associate Dean, Undergraduate Medical Education and the Associate Dean, Learner Affairs of NOSM to discuss the decision of the SAPC in this regard. These individuals are not empowered to overturn committee decisions.
- 4.3 The decision of the SAPC made under Section 4.1 shall prevail and remain in effect until altered by the decision of the Academic Council Appeals Committee in its review or the decision of the Joint Senate Committee for NOSM (the "JSC") in its review. The SAPC

will not hear appeals of its own promotion decisions; as such, a student wishing to appeal a promotion decision must do so in writing to the Academic Council Appeals Committee according to the terms of the NOSM Policy Regarding Academic Appeals.

5. MISCELLANEOUS

- 5.1 Where the time limited by this policy for a proceeding or for doing anything under its provisions expires or falls upon a holiday, the time so limited extends to and the thing may be done on the day next following that is not a holiday. "Holiday" shall be deemed to include Saturday, Sunday, the NOSM Winter Recess, and any other day specified as a holiday under the Interpretation Act (Ontario).
- 5.2 Any notice to be sent by any party under this policy to another party shall be sufficiently given if sent by email as follows:
- i. in the case of notice to a student, to the student's email address assigned by NOSM to the student while at NOSM;
 - ii. in the case of notice to any other person related to NOSM, to that person's email address as assigned by NOSM;
 - iii. in the case of a committee, to the email address assigned by NOSM to the Chair of that committee; or
 - iv. in the case of notice to any other not directly associated with NOSM, to that person's email address as provided by the person.

Any notice duly sent in this manner shall be deemed delivered on the day next following the date of the sending of the email.

- 5.3. All evidence and information provided by the student to the SAPC Subcommittee shall be kept confidential by members of the SAPC Subcommittee.

DO NOT REMOVE THIS DOCUMENT HISTORY RECORD		
-- This document will be reviewed October 2015 --		
Version	Date	Authors/Comments/Amendments/Approvals
V1.0	April 2005	Original Student Promotion and Appeals Policy approved by Lakehead and Laurentian Senates
V2.0	June 2007	Revised – approved by Lakehead and Laurentian Senates
V3.0	May 2009	Revised – approved by Lakehead and Laurentian Senates
V4.0 pending	30 Oct 2013	Student Promotion and Appeals Policy revised to align with the new Academic Council Appeals Policy; also document name change to UME Academic Appeals Policy
	12 Dec 2013	Approved by SAPC
	20 Dec 2013	Emailed to UMEC members for 1 st reading
	09 Jan 2014	Approved by UMEC
		Approval by Academic Council – pending (30 January 2014)
		Approval by Joint Senate - pending
		Approval by Lakehead Senate - pending
		Approval by Laurentian Senate - pending

Recommendation #3: Joint Senate Committee Process for Appeal Review

Action/Motion:

MOVED that the Senate approves the Joint Senate Committee (JSC) Process for Appeal Review as presented.

Background/Rationale:

Upon the Senate's approval of the NOSM Policy Regarding Academic Appeals, this process for JSC will be in effect.

This Process was originally imbedded in the Student Assessment and Appeals Policy. Under the recommendation of the review committee was not included in the new version of the NOSM Policy Regarding Academic Appeals. Therefore, the process removed and placed in its own JSC document. There were no substantive changes other than ensuring the working days were aligned and definitions were added, which are the same definitions in the NOSM Policy Regarding Academic Appeals to ensure consistency.

JOINT SENATE COMMITTEE PROCESS FOR APPEAL REVIEW

1.0 Definitions

For the purposes of this document, the following definitions will apply

“Appellant” a learner who appeals a decision

“ACAC” Academic Council Appeals Committee

“Joint Senate Committee (JSC)” the Joint Senate Committee for NOSM “JSC” has been duly constituted by both Senates to review all academic recommendations from the Academic Council and make recommendations to both Senates for their approval. The Joint Senate Committee also has the jurisdiction to hear Appeals as outlined in their terms of reference.

“Learner” MD learners, postgraduate residents (trainees), dietetic interns and/or any other learner in a Program governed by Academic Council

“Natural Justice” ‘Natural justice’ was developed in England in the 19th century to define the rules for decision-making. Having evolved overtime, the concept is now often described as ‘procedural fairness’ or just ‘fairness’. As a result, the terms natural justice, procedural fairness, and fairness are often used interchangeably.

The two basic components of natural justice are:

- 1) That the person affected by the decision:
 - Will receive notice that his or her case is being considered
 - Will be provided with the specific aspects of the case that are under consideration so that an explanation or response can be prepared
 - Will be provided with the opportunity to make submissions (written or oral) relating to the case
- 2) That the decision-maker(s) will be unbiased.

To be unbiased is to be and to be seen as objective of impartial about the matter you are considering. The best way for decision-makers to be unbiased is:

- To understand what bias is (i.e. if you have a firmly held, favourable or negative opinion about a matter or an individual). If you cannot be objective about a matter that is within your purview, you should remove yourself from the decision-making process.
- If you are part of a committee of decision-makers, each member must feel free to make his or her own decision. Therefore, each member of the committee must be free of influence from other committee members, from outside third parties, or from the influence of those who have designated them as decision-makers.
- Sometimes bias is alleged because it is believed the decision-maker knows too much about the matter under scrutiny. A well-informed decision-maker is not biased if she or he has an open mind and is open to persuasion by the information provided through the decision-making process.

“It is my firm belief that if all decision-makers abided by these basic principles when forming conclusions and making decisions there would be very few complaints about the fairness of decisions other than from those for whom any answer other than the one they want is unacceptable.”

“Notice” means any notice to be sent by any party under this policy to another party shall be sufficiently given if sent by email. Any notice duly sent in this manner shall be deemed delivered on the day next following the date of the sending of the email.

“Respondent” a person or persons who respond or make a reply

"Working Day" means a day in which the Northern Ontario School of Medicine (NOSM) offices are open for business from Monday to Friday, excluding statutory holidays and any other day that the Northern Ontario School of Medicine is closed.

2.0 Joint Senate Committee’s Appeal Committee

With regards to an appeal related to a program whose credentials are not granted under the authority of Lakehead University or Laurentian University, the decision of the ACAC in this regard shall be final and binding.

For learners whose credentials are granted under the authority of Lakehead University or Laurentian University, in the event that the ACAC denies the appeal, the Appellant, may submit a new Request for Appeal application to be heard by the Joint Senate Committee for NOSM (JSC) and follow the procedures set out in the Joint Senate Committee Appeals Process.¹

3.0 Review Process for Appeals

1. If the learner does not agree with the decision of the Academic Council Appeals Committee (ACAC) on its review of its earlier decision, then the learner shall have the right within ten (10) days of receiving the latest decision of the ACAC to make a written submission requesting a hearing by the Joint Senate Committee on the “Request for Appeal Form” and submitted to the Chair of the JSC c/o the Secretary of the Academic Council within 10 working days of receipt of the notice at the previous level.
2. The notice shall specify the grounds for the review and shall include all supporting documents that are deemed relevant together with a copy of the decision of the ACAC. The grounds for review and the JSCs review of the decision of the ACAC will be limited to the following:
 - a) whether the ACAC followed the procedural requirements for the hearing set in the NOSM Policy Regarding Academic Appeals and, if not, whether its failure to do so resulted in the learner not being given a fair hearing; and
 - b) whether the ACAC adhered to the principles’ of natural justice in its conduct at the hearing.

Upon receipt, a copy of the notice from the learner shall be sent by the Chair of the JSC to the Chair of the ACAC.

3. Within ten (10) days of receiving the notice from the learner requesting a formal review of the decision of the ACAC by the JSC, the JSC shall notify the learner in writing of the date for the hearing. If the learner has any problems with respect to the proposed date for the hearing, the learner shall notify the Chair of the JSC as soon as possible thereafter and every reasonable effort will be made to reschedule to a date with reasonable lead time. All hearings can be accommodated by video and/or telecommunications. In addition, every reasonable effort shall

¹ NOSM Policy Regarding Appeals Section 5.0 Further Appeals

be made by both parties to have the hearing before the JSC held within 15 working days of the date of receipt of the written notice from the learner requesting the review hearing.

4. The learner shall have the right to be represented by another person or legal counsel at the hearing. However, the learner shall notify the Chair of the JSC at least 10 working days prior to the date of the hearing that the learner will be represented at the hearing by another person or legal counsel.
5. The hearing shall be heard by the JSC or a subcommittee of the JSC duly established for this purpose.
6. The following procedure shall apply with respect to the hearing before the JSC:
 - a) The hearing shall commence on the date and time appointed for the hearing;
 - b) The evidence submitted by the learner and the Respondent will be restricted to the issues before the JSC since the hearing before the JSC shall not be a re-hearing of the evidence presented at the hearing before the ACAC.
 - c) The learner will make an opening statement containing a brief description of learner's grounds for the JSC to review the decision of the ACAC and a short summary of the evidence that the learner relies on in support thereof;
 - d) The learner shall have the right to supplement the opening statement with any or all of the following:
 - a. oral testimony of the learner;
 - b. documents or other written evidence in support of this testimony.
 - e) NOSM (the "Respondent") through its designated representative or legal counsel and the JSC will have the right to question the learner at the close of the learner's testimony.
 - f) Following completion of the learner's case, the Respondent shall present its case. The Respondent shall complete an opening statement containing a brief reply to the learner's claims and a short summary of the evidence that the Respondent relies upon in support thereof. In support of its position, the Respondent may submit any or all of the following:
 - a. oral testimony of a representative of NOSM; and
 - b. documents or other written evidence in support of this testimony.
 - g) The learner and the JSC shall have the right to question the representative of NOSM at the close of testimony.
 - h) The learner shall have the right to offer testimony of the learner in reply to the issues raised in the Respondent's case.
 - i) After the testimony of each witness, the JSC may, in addition to asking questions of the witness as noted above, request copies of such documents mentioned in the testimony as the JSC, in its discretion, deems appropriate.

j) At the conclusion of the evidence, the parties shall be entitled to make closing arguments and to summarize briefly the main points of their respective cases in the following order:

- a. appellant;
- b. respondent; and
- c. appellant

7. The JSC shall have the right to alter this order in the interest and fairness of any or all of the parties.

8. The JSC may consider and grant a recess or adjournment at any time during the hearing to ensure a fair hearing.

9. A person appearing before the JSC may be required to give evidence under affirmation or oath.

10. The JSC shall have the discretion to limit the testimony and questioning of witnesses to those matters it considers relevant to the disposition of the case.

11. The parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the JSC.

12. The JSC shall have the power to require production of written or documentary evidence by the parties or by any other source.

13. The JSC has the power to rule on the admissibility of evidence.

4.0 Notice of Decision

1. Following the formal hearing, the JSC shall deliberate in a closed session and shall reach a decision.

2. The decision of the JSC shall be restricted to either of the following:

- a. that there are no grounds for altering the decision of the ACAC and that the decision of the ACAC shall stand; or
- b. the ACAC did not meet the requirements set out in the NOSM Policy Regarding Academic Appeals hereof and, as a result, the matter shall be referred back to the ACAC for re-hearing.

3. The JSC shall supply a written report of its decision to the Appellant, the Respondent(s), the appropriate Associate Dean, the Dean of the Medical School and to other individuals as the ACAC deems appropriate and/or necessary. The written report of the ACAC must include:

- a. the membership of the Appeals Committee
- b. the background of the appeal
- c. a summary of the case of the appellant and the respondent
- d. the findings of fact
- e. the decision, recommendations (if any) and the reasons for its decision.

4. The decision of the JSC in this regard shall be final and binding.

5.0 Related Policies/References

- NOSM Policy Regarding Academic Appeals
- Request for Appeal Form
- Appeal Process Overview Chart

6.0 Getting Help

Learners are encouraged to contact the Learner Affairs office.

Queries regarding interpretations of this document should be directed to:

Governance Office – Office of the Dean
Northern Ontario School of Medicine
(705) 662-7206

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V1.0	November 21, 2012	First Review – New document