

JOINT SENATE COMMITTEE FOR NOSM

Updated Report and Submission to the Lakehead and Laurentian University Senates

Chair: Dr. Céline Larivière (Laurentian University)

April 27, 2018

The Joint Senate Committee for NOSM met on April 26, 2018. This report summarizes the approvals made by the Committee. It also presents key informational items reviewed.

The following recommendation is included for approval by the Senates:

Note: All supporting documentation include 1/Action Briefing Template 2/ Clean Version for Approval 3/ Track Change Version for information

Recommendation #1 - Vote on approval of the revised Policy Regarding Academic Appeals (Pages 1-17)

MOVED THAT the Policy Regarding Academic Appeals is approved as presented.

#2 Information Item – Approved Academic Council Appeals Committee Terms of Reference (Pages 18-29)

Recommendation #3 – Vote on approval of UME Academic Appeals Policy document (Pages 30-44)

MOVED THAT the UME Academic Appeals Policy is approved as presented.

Recommendation #4 & #5 - Vote on approval of the revised Joint Senate Committee Terms of Reference and the retirement of the JSC Process for Appeal Review document (Pages 45-52 & 54-58)

MOVED THAT the revised Joint Senate Committee for NOSM Terms of Reference be approved as presented.

MOVED THAT the Joint Senate Committee for NOSM Process for Appeal Review document is retired.



Northern Ontario
School of Medicine
École de médecine
du Nord de l'Ontario
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NORTHERN ONTARIO SCHOOL OF MEDICINE

Action Briefing Template

To: Senates

Date of Meeting: April 26, 2018

Submitted By: Bob Smith, Chair GNC/ ACADEMIC COUNCIL

Responsible: GNC/Academic Council

Portfolio:

Subject: Vote on approval of the revised Policy Regarding Academic Appeals

For Approval

For Recommendation

For Discussion

MOTION:

MOVED THAT the Policy Regarding Academic Appeals is approved as presented.

PROPONENT(S)

GNC / Secretary

REQUESTED ACTION

See motion above

KEY POINTS

NOSM's (i) Policy Regarding Academic Appeals (the "Policy"); and (ii) Academic Council Appeals Committee Terms of Reference (the "Terms of Reference").

Based on the review of the UME Appeals Policy, the above noted documents were reviewed and changed accordingly. The details of the changes are outlined in the attached blackline documents containing our highlighting our suggested revisions.

With respect to the Policy, our proposed revisions focused on setting out a clearer definition of natural justice in accordance with the principles of administrative law in Canada. Should a decision made under the Policy be subject to judicial review, it will more likely be upheld to the extent that these principles have been adhered to. Consistent with the opinion we previously provided, we have also added provisions to the Policy regarding (i) the right of appellants and the Academic Council Appeals Committee (the "ACAC") to legal counsel; and (ii) the requirement for appellants to exhaust available alternative remedies before applying to have a decision made

under the policy judicially reviewed. Additional language surrounding conflicts of interest was also added, including an obligation for the Chair to disclose to other members of the ACAC when he/she has a conflict.

Aligned with the recommendation to simplify the steps in the process, combining the ACAC with the JSC Appeals Committee, the Committee also reviewed the relative Terms of Reference documents. With respect to the Terms of Reference, our proposed revisions focused on adding further detail and clarity to the Conflict of Interest and Confidentiality provisions to make the protections under these provisions more robust in favour of NOSM's interests in (i) ensuring against an actual or perceived conflict of interest by the ACAC's members; and (ii) protecting confidential information related to the ACAC's proceedings. Additions also include:

In the Policy, a definition of "Program"

In the Terms of Reference, (i) a specification of the process for appointing ACAC members; We have left the determination of a process for appointment within the discretion of the Academic Council, and to specify that a "year" of appointment refers to an academic year. With respect to the appointment process, we note that it is up to NOSM to determine the level of detail it wishes to specify, and the current language will provide flexibility to specify processes for appointment on a case-by-case basis.

We have also made consequential revisions throughout the Terms of Reference and the Policy to reflect the general establishment of a Committee Panel, with individual Appeal Committees to be appointed from among the Committee Panel's membership to address specific individual appeals. We note, in particular, proposed revisions to the "Meetings" provision under the Terms of Reference such that the provision will refer to both (i) meetings of the Committee Panel for planning and policy review purposes; and (ii) meetings of individual Appeal Committees (for whom quorum is constituted by the presence of all five chosen members, subject to your preferences otherwise) to address student appeals.

Given the requirement for Appeal Committees to be representative and diverse where possible, and in order to ensure that Appeal Committee responsibilities are evenly distributed among all members of the Committee Panel, we have recommended revised language to provide for the Chair to select Appeal Committee members at his/her discretion – rather than requiring such selection to be random.

The proposed changes were discussed with the Chair of the SAPC, the AD UME and the GNC as well; BLG provided the legal opinion and recommendations.

NEXT STEPS: The Policy will be brought forward to the Joint Senate Committee for NOSM for Approval and then to the Senates. Changes in this document, also required changes in the Academic Council Appeals Committee, which will require changes to the JSC Terms of Reference as well as the Process for Appeals

SUPPORTING DOCUMENTS:

Policy Regarding Academic Appeals (clean and blacklined copies)

Academic Council Appeals Committee Terms of Reference (clean)



NOSM Policy Regarding Academic Appeals

Approved By: Lakehead and Laurentian University Senates
(April 14 & 15, 2014)

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

“NOSM” or the “School” refers to the Northern Ontario School of Medicine.

“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.

A “Learner” includes any MD student, postgraduate resident (trainees), dietetic intern and/or any other learner in a Program governed by Academic Council.

“Natural Justice” refers to general principles developed under English law in the 19th century to define the rules for decision-making.

The two basic components of natural justice are:

1) Procedural Fairness

The party who will be affected by a decision may be entitled to receive

- notice of the matter under consideration alongside the specific aspects of the matter being considered;
- an opportunity to make representations through a written or oral hearing; and
- reasons for the decision that is made.

2) The Absence of Bias

Decision-makers must not only be unbiased, but must ensure that they would not appear to be biased to the reasonable person. A reasonable apprehension of bias arises where an informed person, viewing a matter realistically and practically - and having thought the matter through – does not believe that a decision-maker capable of deciding the matter fairly.

Steps taken by decision-makers to remain unbiased include:

- Understanding what bias is (e.g., having a firmly held, favourable or negative opinion about a matter or an individual). If one cannot be objective about a matter that is within one's purview, then one should remove oneself from the decision-making process.
- In 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.

"Notice" means any notice to be sent by any party under this policy to another party. Any notice duly sent via email manner to a recipient's known email address shall be deemed delivered on the day next following the date of the sending of the email.

"Program" means any combination of courses and/or other study requirements that, upon successful completion, lead to the award of a formal qualification such as a university degree (MD or MMS) or health professional certification (CCFP, FRCPSC or RD).

"Respondent" a person or persons who respond or make a reply to a claim or allegation.

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

2.0 Purpose

An Appeal Committee ("AC") formed from among the membership of a NOSM Committee Panel in accordance with the Academic Council Appeal Committee Terms of Reference will hear any appeal based on an academic decision, rendered by any NOSM program or committee under the purview of the Academic Council.

A NOSM Learner may appeal to an AC if the matter relates directly to the course of study/training within the Program, and falls into one of the following categories:

1. Promotion and/or withdrawal from the Program

The Learner 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 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.

3. Professionalism

The Learner 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

An appeal will be considered only where a Learner is able to establish:

- a) there is evidence of a factual error or procedural irregularity in the previous level of decision-making; or
- b) that the previous body did not adhere to the principles of Natural Justice.

3.2 Written Appeal to an Appeal Committee

An appeal to an AC may be made only after a decision subject to the appellate jurisdiction of the Committee Panel has been made and communicated to the Learner. A record of the appealed decision must be included in any appeal to an AC.

A written submission requesting a hearing by an AC must be made by completing all required sections of a "Request for Appeal Form" and submitted to the Chair of the Committee Panel c/o the Secretary of the Academic Council within 10 working days of receipt of the notice at the previous level.

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

3.3 Time Limits

If written submissions to an AC are incomplete or not made within this period of 10 working days in the absence of reasonable cause, the appealed decision will become 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 Committee Panel to exist if the delay resulted from incidents including but not limited to illness, accident, serious personal matters, or other circumstances which are beyond the control of a Learner, trainee or faculty member and which, in the opinion of the Chair of the Committee Panel, are a substantial contributing factor to the delay.

3.4 Appeal Committee Hearing and Procedures

The determination of the composition of an AC is outlined in the Academic Council Appeal Committee Terms of Reference.

Upon receipt of an Appellant's request for appeal, a copy of the Appellant's written submissions shall be sent by the Chair of the Committee Panel to the Chair of the Program to which the appeal applies.

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

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

The Chair of the Committee Panel must be notified of any issues with respect to the proposed date for the oral hearing, and the individuals must notify the Chair of the Committee Panel of such, 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. An AC 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 AC 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 AC may proceed to consider the appeal on its merits.
- c) The AC 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 submissions made at the hearing. Such oral presentation shall address only those matters raised in the parties' written submissions as previously filed with the AC.

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

- 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 AC 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 AC to clarify any point raised in the evidence.
- e) Examination of the Respondent by the AC 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 AC to clarify any point raised in the evidence.
- g) Reply evidence, if any, on behalf of Appellant, including calling of witnesses by the Appellant, cross-examination, re-examination and examination of witnesses by the AC 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.
- h) Summary remarks by the Appellant.
- i) Summary remarks by the Respondent.
- j) Reply, if any, by the Appellant to summary remarks by the Respondent(s), which shall be limited only to new points raised in the summary remarks by the Respondent(s).

The Chair of the AC shall have the right to alter this order and process where determined appropriate and in accordance with the principles of Natural Justice.

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

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

The Chair of the AC 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 AC.

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

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

Appellants and Respondents shall have the right to the presence legal counsel during a hearing, but are responsible for presenting their own case to the AC, except to the extent otherwise determined by the Chair in accordance with the principles of Natural Justice. Appellants and Respondents are responsible for paying their own costs associated with any such representation or consultation. Also, the AC shall have the right to seek for the presence of legal counsel during the proceedings.

4.0 Notice of Decision

At the conclusion of the hearing, the AC 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 AC shall provide a written report of the AC's decision to the Appellant, the Respondent, the appropriate Associate Dean, the Dean of the Medical School and to other individuals as the AC deems appropriate and/or necessary.

The written report of the AC must include the following, except where otherwise determined by the Chair of the AC in accordance with the principles of Natural Justice:

- a. the membership of the AC
- b. a summary of the background to the appeal
- c. a summary of the submissions of the Appellant and the Respondent
- d. the AC's findings of fact
- e. the AC's decision, recommendations (if any) and reasons for its decision.

Any decision made by the AC with regards to an appeal related to a Program under the purview of the Academic Council shall be final and binding.

Before pursuing an application for judicial review with respect to any decisions made under this Policy or under any other related policies and procedures approved by the NOSM Academic Council or its subcommittees ("internal processes"), a Learner must first exhaust all adequate alternative remedies available under the internal processes.

5.0 Conflict of Interest

The issue of impartiality during the Appeal process is considered crucial. Therefore, a member of the Committee Panel will be required to abstain from sitting on an AC or otherwise influencing any appeal hearing(s) in which that member is determined to have a conflict of interest.

Examples of circumstances where a conflict of interest may arise include but are not limited to:

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

Should a Committee Panel member discover that he or she has a conflict of interest; the member must inform the Chair of the Committee Panel at the earliest opportunity. Should the Chair discover that he or she has a conflict of interest; the Chair must inform the other members of the Committee Panel at the earliest opportunity.

6.0 Related Policies/References

- Request for Appeal Form
- Appeal Process Overview Chart

7.0 Getting Help

Learners are encouraged to contact the Learner Affairs and/or [Postgraduate Medical Education 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
	April 15, 2014	Approved at Lakehead Senate on April 14, 2014 and Laurentian Senate on April 15, 2014

NOSM Policy Regarding Academic Appeals

Approved By: Lakehead and Laurentian University Senates
(April 14 & 15, 2014)

Responsible Office(s): Academic Council

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Secretary of Academic Council
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Revised: n/a



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Reasonable cause for delay of proceedings may be found by the Chair of the ACAC Committee Panel to exist if the delay resulted from incidents including but not limited to illness, accident, serious personal matters, or other circumstances which are beyond the control of a Learner, trainee or faculty member and which, in the opinion of the Chair of the ACAC Committee Panel, are a substantial contributing factor to the delay.

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- c) The ~~ACAG~~ AC 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 submissions made at the hearing. Such oral presentation shall address only those matters raised in the parties' written submissions as previously filed with the ~~ACAG~~ AC.

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

- 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 ~~ACAG~~ AC 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 [ACAGAC](#) to clarify any point raised in the evidence.
- e) Examination of the Respondent by the [ACAGAC](#) 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 [ACAGAC](#) to clarify any point raised in the evidence.
- g) Reply evidence, if any, on behalf of Appellant, including calling of witnesses by the Appellant, cross-examination, re-examination and examination of witnesses by the [ACAGAC](#) 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.
- h) Summary remarks by the Appellant.
- i) Summary remarks by the Respondent.
- j) Reply, if any, by the Appellant to summary remarks by the Respondent(s), which shall be limited only to new points raised in the summary remarks by the Respondent(s).

The Chair of the [ACAGAC](#) shall have the right to alter this order and process where determined appropriate and in accordance with the principles of Natural Justice.

The Chair of the [ACAGAC](#) may consider and grant a recess or adjournment at any time during the hearing to ensure a fair hearing.

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The parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the [ACAGAC](#).

The [ACAGAC](#) shall have the power to request written or documentary evidence by the parties or by any other source.

The Chair of the [ACAGAC](#) has the power to rule on the admissibility of evidence.

Appellants and Respondents shall have the right to the presence legal counsel during a hearing, but are responsible for presenting their own case to the [ACAGAC](#), except to the extent otherwise determined by the Chair in accordance with the principles of Natural Justice.

Appellants and Respondents are responsible for paying their own costs associated with any such representation or consultation. Also, the [ACAGAC](#) shall have the right to seek for the presence of legal counsel during the proceedings.

4.0 Notice of Decision

At the conclusion of the hearing, the [ACAGAC](#) 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 [ACAGAC](#) shall provide a written report of the [ACAGAC](#)'s decision to the Appellant, the Respondent, the appropriate Associate Dean, the Dean of the Medical School and to other individuals as the [ACAGAC](#) deems appropriate and/or necessary.

The written report of the [ACAGAC](#) must include the following, except where otherwise determined by the Chair [of the AC](#) in accordance with the principles of Natural Justice:

- a. the membership of the ~~Appeals Committee~~[AC](#)
- b. a summary of the background to the appeal
- c. a summary of the submissions of the Appellant and the Respondent
- d. the [ACAGAC](#)'s findings of fact
- e. the [ACAGAC](#)'s decision, recommendations (if any) and reasons for its decision.

Any decision made by the [ACAGAC](#) with regards to an appeal related to a Program under the purview of the Academic Council shall be final and binding.

Before pursuing an application for judicial review with respect to any decisions made under this Policy or under any other related policies and procedures approved by the NOSM Academic Council or its subcommittees ("internal processes"), a Learner must first exhaust all adequate alternative remedies available under the internal processes.

5.0 Conflict of Interest

The issue of impartiality during the Appeal process is considered crucial. Therefore, a member of the [ACAGAC Committee Panel](#) will be required to abstain from ~~participating in~~[sitting on an AC](#) or otherwise influencing any appeal hearing(s) in which that member is determined to have a conflict of interest. Examples of circumstances where a conflict of interest may arise include but are not limited to:

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

Should ~~an ACAGAC~~[a Committee Panel](#) member discover that he or she has a conflict of interest; the member must inform the Chair [of the Committee Panel](#) at the earliest opportunity. Should the Chair discover that he or she has a conflict of interest; the Chair must inform the other members of the [ACAGAC Committee Panel](#) at the earliest opportunity.

6.0 Related Policies/References

- Request for Appeal Form
- Appeal Process Overview Chart

7.0 Getting Help

Learners are encouraged to contact the Learner Affairs office.

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Version	Date	Authors/Comments
V1.0	October 25, 2013	Approval at Academic Council with effective date May 1, 2014
	April 15, 2014	Approved at Lakehead Senate on April 14, 2014 and Laurentian Senate on April 15, 2014

Document comparison by Workshare Compare on March-29-18 10:58:48 AM

Input:	
Document 1 ID	PowerDocs://TOR01/7317086/3
Description	TOR01-#7317086-v3-NOSM_Policy_Regarding_Academi c_Appeals_v2018Review
Document 2 ID	PowerDocs://TOR01/7317086/4
Description	TOR01-#7317086-v4-NOSM_Policy_Regarding_Academi c_Appeals_v2018Review
Rendering set	standard

Legend:	
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Statistics:	
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Insertions	70
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Moved to	0
Style change	0
Format changed	0
Total changes	135



NORTHERN ONTARIO SCHOOL OF MEDICINE

Action Briefing Template

To:	Joint Senate Committee	Date of Meeting:	April 26, 2018
Submitted By:	Bob Smith, Chair GNC/ ACADEMIC COUNCIL		
Responsible Portfolio:	GNC/Academic Council		
Subject:	Academic Council Appeals Committee Terms of Reference		

For Approval
 For Recommendation
 For Discussion



PROPONENT(S)

GNC / Secretary /JSC

KEY POINTS

Based on the review of the NOSM Policy Regarding Academic Appeals and the UME Appeals Policy, the ACAC Terms of Reference was changed accordingly. The details of the changes are outlined in the attached blackline documents containing our highlighting our suggested revisions.

Aligned with the recommendation to simplify the steps in the process, combining the ACAC with the JSC Appeals Committee, the Committee also reviewed the Terms of Reference. With respect to the Terms of Reference, our proposed revisions focused on adding further detail and clarity to the Conflict of Interest and Confidentiality provisions to make the protections under these provisions more robust in favour of NOSM’s interests in (i) ensuring against an actual or perceived conflict of interest by the ACAC’s members; and (ii) protecting confidential information related to the ACAC’s proceedings. Additions also include:

In the Terms of Reference, (i) a specification of the process for appointing ACAC members; We have left the determination of a process for appointment within the discretion of the Academic Council, and to specify that a “year” of appointment refers to an academic year. With respect to the appointment process, we note that it is

up to NOSM to determine the level of detail it wishes to specify, and the current language will provide flexibility to specify processes for appointment on a case-by-case basis.

We have also made consequential revisions throughout the Terms of Reference and the Policy to reflect the general establishment of a Committee Panel, with individual Appeal Committees to be appointed from among the Committee Panel's membership to address specific individual appeals. We note, in particular, proposed revisions to the "Meetings" provision under the Terms of Reference such that the provision will refer to both (i) meetings of the Committee Panel for planning and policy review purposes; and (ii) meetings of individual Appeal Committees (for whom quorum is constituted by the presence of all five chosen members, subject to your preferences otherwise) to address student appeals.

Given the requirement for Appeal Committees to be representative and diverse where possible, and in order to ensure that Appeal Committee responsibilities are evenly distributed among all members of the Committee Panel, we have recommended revised language to provide for the Chair to select Appeal Committee members at his/her discretion – rather than requiring such selection to be random.

The proposed changes were discussed with the Chair of the SAPC, the AD UME and the GNC as well; BLG provided the legal opinion and recommendations.

NEXT STEPS: The Policy will be brought forward to the Joint Senate Committee for NOSM for Approval and then to the Senates. Changes in this document, also required changes in the Academic Council Appeals Committee, which will require changes to the JSC Terms of Reference as well as the Process for Appeals

SUPPORTING DOCUMENTS:

Policy Regarding Academic Appeals (clean and blacklined copies)

Academic Council Appeals Committee Terms of Reference (clean)



Northern Ontario
School of Medicine
École de médecine
du Nord de l'Ontario
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Academic Council Appeal Committee Terms of Reference

Approved By: Academic Council

Responsible Office(s): Academic Council

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

Effective date: June 15, 2006

Supersedes: June 15, 2006

Revised: 2018 Review

INFORMATION ONLY

Function

Appeal Committees drawn from a Committee Panel will be convened to hear learner appeals based on an academic decision rendered by any Northern Ontario School of Medicine ("NOSM" or "School") program or committee under the purview of the Academic Council (the "Council") making a promotion, withdrawal decision or finding of unprofessional behaviour.

The Committee Panel is to:

- Report on decisions of Appeal Committees, for informational purposes, to the Academic Council and applicable bodies. The name of the appellant shall be withheld in such reports.
- Advise and report to the Academic Council from time to time with respect to NOSM policies on academic appeals and appeal procedures throughout the School.
- Operate under the NOSM Policy Regarding Academic Appeals, and determine detailed procedures thereunder as necessary and appropriate.

Membership

A Committee Panel shall be composed of the following individuals:

- The Chair of the Joint Senate Committee (or designate), who shall serve as Chair of the Committee Panel
- 2 additional members of the Joint Senate Committee
- 2 non-learner members from the Academic Council
- 3 faculty members at large (one from each Division – Clinical Sciences, Human Sciences and Medical Sciences Division)
- 1 learner appointed from each NOSM program¹ or subset of NOSM programs
- The Secretary to the Academic Council

¹ NSOM Policy Regarding Academic Appeals Program Definition: "Program" means any combination of courses and/or other study requirements that, upon successful completion, lead to the award of a formal qualification such as a university degree (MD or MMS) or health professional certification (CCFP, FRCPSC or RD).

Members of the Committee Panel shall be appointed by NOSM's Academic Council on the recommendation of the Governance and Nominations Committee and in accordance with procedures determined by the Academic Council.

To hear any appeal, an Appeal Committee shall be convened by the Secretary. The Appeal Committee shall consist of:

- The Chair or, in the event of a conflict, their designate, who shall serve as Chair of the Appeal Committee.
- One (1) member from each of the following, selected by the Chair of the Appeal Committee in accordance with these Terms of Reference and the NOSM Policy Regarding Academic Appeals from among the membership of the Committee Panel:
 - One (1) member of the Joint Senate Committee.
 - One (1) non-learner member from the Academic Council.
 - One (1) faculty member at large.
 - One (1) learner from a program other than the one in which the appeal is being heard.

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

Resource Individuals

- Associate Dean, Undergraduate Medical Education, non-voting and resource only
- Associate Dean, Postgraduate Medical Education, non-voting and resource only
- Assistant Dean, Learner Affairs, non-voting and resource only
- Program Manager, Northern Ontario Dietetic Internship Program (NODIP), non-voting and resource only
- Director of Planning and Risk, non-voting and resource only

Terms of Appointment

Membership on the Committee Panel shall be for a period of two academic years, running from July 1 to June 30. Certain terms of service may survive beyond a member's term of appointment.

Conflict of Interest

1. Members of the Committee Panel are responsible for recognizing and avoiding circumstances that may give rise to, or give the appearance of giving rise to, a conflict of interest between a member's direct or indirect interests and the member's obligations in conducting the business of the Committee Panel.
2. Members of the Committee Panel must identify and disclose to the Committee Panel any possible direct or indirect conflict of interest relating to a matter being appealed at the earliest possible time. The disclosure shall be sufficient to disclose the nature and extent of the member's interest. Once made, a disclosure of a conflict of interest that

continues to exist shall be considered a continuing disclosure and shall be sufficient to fulfill the member's obligations of disclosure without the member having to make any additional disclosure regarding the matter, provided that the member must identify and disclose to the Committee Panel any material change that would impact on the nature or extent of the conflict.

3. In appropriate circumstances, as determined by the Chair, a member of the Committee Panel may be required to abstain from proceedings and discussions on an identified matter being appealed and shall not attempt in any way to influence the voting on such matter.
4. Prior to considering the merits of any appeal, the Committee Panel shall determine if any member chosen to serve on an Appeal Committee has a conflict of interest in the matter being appealed.

Meetings

1. The Committee Panel and Appeal Committees will meet as required, including for planning and policy review purposes, based on the call for appeals or as directed by the Academic Council.
2. In the hearing of any appeal by an Appeal Committee:
 - (a) A quorum shall compose all five (5) voting members of the selected Appeal Committee.
 - (b) Each voting member of the Appeal Committee will have one vote. The Chair shall only cast a vote in the event of a tie.
 - (c) A simple majority of votes (i.e., more than 50% of votes cast) is required for an appeal to be granted.

Confidentiality

1. Information learned by members of the Committee Panel in connection with the business and proceedings of the Committee Panel and its Appeal Committees are highly confidential and members are expected to maintain the strict confidentiality of such information, which includes without limitation:
 - a) Information concerning the personal affairs of students;
 - b) Information concerning the business, operations and governance of the School;
 - c) Information concerning the personal and professional affairs of School staff and faculty.(the "Confidential Information")
2. The duty of Committee Panel members to maintain the strict confidentiality of the Confidential Information applies both during and subsequent to their tenure of membership on the Committee Panel.
3. Disclosure of the Confidential Information must not be made by members of the Committee Panel except where required for the fulfillment of the Committee Panel's purposes and where otherwise required by law and only to the extent thus required.
4. Meetings of the Committee Panel and its Appeal Committees are closed to the public.

5. On conclusion of the term of their appointment, all Appeal Committee's members must return to the Chair of the Committee Panel or designate, without demand, any correspondence, documents, papers and property belonging to the Committee Panel, including memoranda or other written matter emanating from his/her appointment with the Committee Panel.

6. On conclusion of the term of their appointment, all Committee Panel members shall not publish or otherwise reproduce, by any means, any of the above-mentioned matters for possible use against the best interests of the Committee Panel or any student of the School.

7. The Chair of the Committee Panel will be responsible for advising the members on the following policy of confidentiality:

- (a) prevention of unauthorized release of information from the Committee Panel is only possible through the goodwill and integrity of the individual members;
- (b) strict confidentiality must be maintained regarding all information presented to and considered by the Committee Panel and its Appeal Committees;
- (c) the official spokesperson for the Committee Panel and its Appeal Committees will be the Chair.

Related Policies/Documents

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

DO NOT REMOVE THIS VERSION RECORD FROM THIS DOCUMENT		
Version	Date	Authors/Comments
V1.0	June 15, 2006	Original document
V2.0	January 30, 2014	Complete revision based on new Appeals Policy and other requirements
		2018 review
V3.0	XXXX 2018	BLG Legal Opinion / Full Review /Updated JSC Recommendation to list Divisions and footnote on Programs



Northern Ontario School of Medicine

École de médecine du Nord de l'Ontario

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Academic Council ~~Appeals~~Appeal Committee Terms of Reference

Approved By: Academic Council

Responsible Office(s): Academic Council

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

Effective date: June 15, 2006

Supersedes: June 15, 2006

Revised: 2018 Review

Function

The ~~Academic Council Appeals~~Appeal Committees drawn from a Committee ~~(ACAC)~~Panel will be convened to hear learner appeals based on an academic decision rendered by any Northern Ontario School of Medicine ("NOSM" or "School") program or committee under the purview of the Academic Council (the "Council") making a promotion, withdrawal decision or finding of unprofessional behaviour.

The ~~ACAC~~Committee Panel is to:

- Report ~~its~~on decisions ~~for information of Appeal Committees, for informational purposes,~~
to the Academic Council and applicable bodies. The name of the appellant shall be withheld in such reports.
- Advise and report to the Academic Council from time to time ~~on policy~~ with respect to NOSM policies on academic appeals and appeal procedures throughout the School ~~and on appeal procedures.~~
- ~~Function using~~Operate under the NOSM Policy Regarding Academic Appeals, and ~~shall~~ determine detailed procedures ~~as required, thereunder as necessary and appropriate.~~

Membership

~~The membership of the~~A Committee Panel shall ~~consist~~be composed of the following individuals:

- The Chair of the Joint Senate Committee (or designate), who shall serve as Chair of the Committee Panel
- 2 additional members of the Joint Senate Committee
- 2 non-learner members from the Academic Council
- 3 faculty members at large (one from each Division) **JSC ADD DIVISIONS**
- 1 learner appointed from each NOSM program or subset of NOSM programs
- The Secretary to the Academic Council, ~~non-voting and resource only~~

Members of the Committee Panel shall be appointed by NOSM's Academic Council on the recommendation of the Governance and Nominations Committee and in accordance with procedures determined by the Academic Council.

To hear ~~an~~any appeal, an Appeal Committee shall be convened by the Secretary. The ~~committee~~Appeal Committee shall consist of:

- The Chair, ~~or designate should their be a conflict or, in the event of a conflict, their designate, who shall serve as Chair of the Appeal Committee.~~
- One (1) member from each of the following, ~~drawn at random by the Chair from~~selected by the Chair of the Appeal Committee in accordance with these Terms of Reference and the NOSM Policy Regarding Academic Appeals from among the membership of the Committee Panel:
 - One (1) member of the Joint Senate Committee.
 - One (1) non-learner member from the Academic Council.
 - One (1) faculty member at large .
 - One (1) learner from a program other than the one in which the appeal is being heard.

~~The~~An Appeal Committee is intended to be representative of the School and aimed at providing a balanced consideration of the appeal. The selection of the membership for an Appeal Committee should provide for a diverse representation when available. The Chair ~~of the Committee or designate~~ shall take appropriate action to ensure such diversity on ~~the Committee.~~ **[Note to Draft: who selects the membership of the ACAC and how/when are selections made? Does the Chair appoint fellow members in the Chair's sole discretion?]**an Appeal Committee.

Resource Individuals

- Associate Dean, Undergraduate Education, non-voting and resource only
- Associate Dean, Postgraduate Medical Education, non-voting and resource only
- Assistant Dean, Learner Affairs, non-voting and resource only
- Program Manager, Northern Ontario Dietetic Internship Program (NODIP), non-voting and resource only
- Director of Planning and Risk, non-voting and resource only

Terms of Appointment

~~1) Elected by Academic Council on the recommendation of the Governance and Nominations Committee, pursuant to the policy.~~

~~2) Membership on the Committee Panel shall be for a period of two academic years. Terms of service shall be arranged such that not all terms expire as of June 30 in each academic year.~~

[Note to Draft: Specify whether these are academic years, calendar years, or reflect the passage of a period of one year from the date, running from July 1 to June 30. Certain terms of service may survive beyond a member's term of appointment].

Conflict of Interest

1. Members of the ACAC Committee Panel are responsible for recognizing and avoiding circumstances that may give rise to, or give the appearance of giving rise to, a conflict of interest between a member's direct or indirect interests and the member's obligations in conducting the business of the ACAC Committee Panel.

2. Members of the [ACAC Committee Panel](#) must identify and disclose to the [ACAC Committee Panel](#) any possible direct or indirect conflict of interest relating to a matter being appealed at the earliest possible time. The disclosure shall be sufficient to disclose the nature and extent of the member's interest. Once made, a disclosure of a conflict of interest that continues to exist shall be considered a continuing disclosure and shall be sufficient to fulfill the member's obligations of disclosure without the member having to make any additional disclosure regarding the matter, provided that the member must identify and disclose to the [ACAC Committee Panel](#) any material change that would impact on the nature or extent of the conflict.
3. In appropriate circumstances, as determined by the Chair, a member of the [ACAC Committee Panel](#) may be required to abstain from proceedings and discussions on an identified matter being appealed and shall not attempt in any way to influence the voting on such matter.
4. Prior to considering the merits of any appeal, the [ACAC Committee Panel](#) shall determine if any member [chosen to serve on an Appeal Committee](#) has a conflict of interest in the matter being appealed.

Meetings

1. The [ACAC Committee Panel and Appeal Committees](#) will meet as required, [including for planning and policy review purposes](#), based on the call for appeals or as directed by the [Academic Council](#).
2. [In the hearing of any appeal by an Appeal Committee:](#)
 - (a) ~~2-~~A quorum shall compose all five (5) voting members of the [ACAC selected Appeal Committee](#).
 - (b) ~~3-~~ Each voting member of the [ACAC Appeal Committee](#) will have one vote. The Chair shall only cast a vote in the event of a tie.
 - (c) ~~4-~~ A simple majority of votes (i.e., more than 50% of votes cast) is required for an appeal to be granted.

Confidentiality

1. Information learned by members of the [ACAC Committee Panel](#) in connection with the business and proceedings of the [ACAC Committee Panel and its Appeal Committees](#) are highly confidential and members are expected to maintain the strict confidentiality of such information, which includes without limitation:
 - a) Information concerning the personal affairs of students;
 - b) Information concerning the business, operations and governance of the School;
 - c) Information concerning the personal and professional affairs of School staff and faculty.(the "Confidential Information")
2. The duty of [ACAC Committee Panel](#) members to maintain the strict confidentiality of the Confidential Information applies both during and subsequent to their tenure of membership on the [ACAC Committee Panel](#).

3. Disclosure of the Confidential Information must not be made by members of the ~~ACAG~~Committee Panel except where required for the fulfillment of the ~~ACAG~~Committee Panel's purposes and where otherwise required by law and only to the extent thus required.
4. Meetings of the ~~ACAG~~Committee Panel and its Appeal Committees are closed to the public.
5. On conclusion of the term of their appointment, all ~~ACAG~~Appeal Committee's members must return to the Chair of the ~~ACAG~~Committee Panel or designate, without demand, any correspondence, documents, papers and property belonging to the ~~ACAG~~Committee Panel, including memoranda or other written matter emanating from his/her appointment with the ~~ACAG~~Committee Panel.
6. On conclusion of the term of their appointment, all ~~ACAG~~Committee Panel members shall not publish or otherwise reproduce, by any means, any of the above-mentioned matters for possible use against the best interests of the ~~ACAG~~Committee Panel or any student of the School.

7. The Chair of the Committee Panel will be responsible for advising the members on the following policy of confidentiality:

- ~~(a) 7. The Chair of the ACAG will be responsible for advising the members on the following policy of confidentiality:~~
- ~~a)~~ prevention of unauthorized release of information from the ~~committee~~Committee Panel is only possible through the goodwill and integrity of the individual members;
 - ~~b)~~
 - ~~(b)~~ strict confidentiality must be maintained regarding all information presented to and considered by the ~~ACAG~~;
 - ~~e)~~ Committee Panel and its Appeal Committees;
 - ~~(c)~~ the official spokesperson for the ~~ACAG~~Committee Panel and its Appeal Committees will be the Chair.

Related Policies/Documents

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

DO NOT REMOVE THIS VERSION RECORD FROM THIS DOCUMENT		
Version	Date	Authors/Comments
V1.0	June 15, 2006	Original document
V2.0	January 30, 2014	Complete revision based on new Appeals Policy and other requirements
		2018 review
V3.0	March 2018	BLG Legal Opinion / Full Review

Document comparison by Workshare Compare on March-29-18 10:59:37 AM

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Document 2 ID	PowerDocs://TOR01/7342898/2
Description	TOR01-#7342898-v2-GK-Academic_Council_Appeals_Committee_Terms_of_Reference_v2018Review_GK
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Format changed	0
Total changes	146



Northern Ontario
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du Nord de l'Ontario
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NORTHERN ONTARIO SCHOOL OF MEDICINE

Action Briefing Template

To: Senates

Date of Meeting: April 26, 2018

Submitted By: Dr. Dave Musson, Associate Dean, UME ACADEMIC COUNCIL APPROVED 4/52018

Responsible UME / UME Committee ACADEMIC COUNCIL

Portfolio:

Subject: Vote on approval of UME Academic Appeals Policy document

For Approval

For Recommendation

For Discussion

MOTION:

MOVED THAT the UME Academic Appeals Policy is approved as presented.

PROPONENT(S):

Dr. Dave Musson, Associate Dean, UME for the UME Committee/Academic Council

REQUESTED ACTION:

See motion above

KEY POINTS:

A) Removal of "APPEALS TO THE STUDENT ASSESSMENT AND PROMOTION COMMITTEE (SAPC)" from the UME Academic Appeals Policy.

Academic Appeals in the UME Program involve 4 consecutive steps:

Step 1: APPEALS OF A COMPONENT OF A THEME GRADE OR OTHER ASSESSMENT

Step 2: APPEALS TO THE STUDENT ASSESSMENT AND PROMOTION COMMITTEE (SAPC)

Step 3: ACADEMIC COUNCIL APPEALS COMMITTEE

Step 4: JOINT SENATE APPEALS COMMITTEE

We have proposed to remove **Step 2** from the UME Academic Appeals Policy. This step is redundant with **Step 1** outlined in the UME Academic Appeals Policy since the grounds of any appeal submitted under both Steps 1 and 2 are the same.

B) The principles of administrative law that apply to hearings under the Appeals Policy require that hearings are to be carried out in a meaningful and fair manner, including the right of an appellant to counsel. As such, the following Section has been added: "Section 4.5. Students making an appeal to an adjudicator(s) under this UME Academic Appeals Policy have the right to the presence legal counsel in the proceedings, but students are responsible for presenting their own case to the adjudicator(s), except to the extent otherwise determined by the adjudicator(s). Appellants are responsible for paying their own costs associated with any such representation or consultation. Also, the School has the right to seek for the presence of legal counsel during the proceedings."

C) An important principle of administrative law is that, absent exceptional circumstances, a party must exhaust any available adequate alternative remedy within the administrative process before pursuing an application for judicial review (see *Harelkin v. University of Regina*).

To reflect this principle the following section in the UME Academic Appeals Policy has been added: "Section 4.6 Before pursuing an application for judicial review with respect to any decisions made under this UME Academic Appeals Policy or under any other related policies and procedures as approved by the NOSM Academic Council or its subcommittees ("internal processes"), a student must first exhaust any available adequate alternative remedies under the internal processes. Should a student not exhaust the available adequate alternative remedies under the internal processes prior to pursuing an application for judicial review, the SAPC may immediately cease any actions related to the assessment of the student that fall under the jurisdiction of the SAPC".

ROUTING AND PERSONS CONSULTED:

This motion was approved by the UME Committee on March 1, 2018

NEXT STEPS:

Upon approval by Academic Council, the Joint Senate, Lakehead University Senate, and Laurentian University Senate, the Secretary to the Board and Academic Council will inform the UME Administrative Coordinator.

Supporting documents:

UME Academic Appeals Policy, UMEC approved 2018 03 01 (clean version)

UME Academic Appeals Policy, UMEC approved 2018 03 01 (track changes version)

assessment being appealed is listed as part of the Program Requirements in the Promotion, Reassessment & Remediation Plan, the request for appeal should be addressed to the Assistant Dean/Director of the appropriate Phase Committee. If the Theme or Assistant Dean/Director is the faculty member who provided the grade or assessment that is being appealed, the request for appeal should be addressed 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 Assistant Dean, 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 with respect to the grade or assessment being appealed. 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 also meet with the faculty member(s) responsible for the grade or assessment being appealed 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 (where applicable), 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; or
- (d) The assessment of the student shall be altered in some way (for example, a specific comment stricken) and 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, if possible within five (5) 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.

2.5 A student wishing to challenge a decision made following an appeal under Section 2.3 shall have the right, within ten (10) working days of receiving notice of the decision, to request a review of the decision by the Academic Council Appeals Committee (ACAC) in a formal hearing as per the NOSM Policy Regarding Academic Appeals. When submitting the request to the ACAC Chair, the student shall specify the grounds for the review and shall provide the ACAC with all necessary supporting documents. The grounds for such review are limited to the following: 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.

- 2.6 The decision of the adjudicator(s) made under Section 2.3 shall prevail and remain in effect unless and until altered by any decision of the ACAC in its review (NOSM Policy Regarding Academic Appeals), or by any decision of the Joint Senate Committee for NOSM (the “JSC”) in its review (as per the Joint Senate Committee Process for Appeal Review).

3. APPEALS OF A PROMOTION DECISION

- 3.1 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 these requirements for promotion as defined in the Student Assessment & Promotion Regulations, and communicate the decision to the student.

- 3.2 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 with respect to promotion. These individuals are not empowered to overturn committee decisions.
- 3.3 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 ACAC within 10 working days of receiving the SAPC decision regarding promotion, according to the terms of the NOSM Policy Regarding Academic Appeals. Any decision of the SAPC made under Section 3.1 shall prevail and remain in effect until altered by the decision of the ACAC in its review or the decision of the Joint Senate Committee for NOSM (the “JSC”) in its review (as per the Joint Senate Committee Process for Appeal Review).

4. MISCELLANEOUS

- 4.1 Where the time limited by this policy for a proceeding or for doing anything under its provisions expires on 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).
- 4.2 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 associated with NOSM, to that person's email address as assigned by NOSM;
- iii. in the case of a committee associated with NOSM, to the email address assigned by NOSM to the Chair of that committee; or
- iv. in the case of notice to any other person 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.

- 4.3 Following the conclusion of any proceedings under this UME Academic Appeals Policy, all evidence, documentation, and information provided by the student to the adjudicator(s) will be forwarded to the Chair of SAPC for filing and shall be kept confidential.
- 4.4 To accommodate the requirements of the student, faculty, or others, any process provided for under this UME Academic Appeals Policy can be conducted by video or teleconferencing utilizing the video or teleconferencing facilities available at the Sudbury and Thunder Bay campuses of NOSM or other NOSM sites, subject to the discretion of the applicable adjudicator(s).
- 4.5 Students making an appeal to an adjudicator(s) under this UME Academic Appeals Policy have the right to the presence legal counsel in the proceedings, but students are responsible for presenting their own case to the adjudicator(s), except to the extent otherwise determined by the adjudicator(s). Appellants are responsible for paying their own costs associated with any such representation or consultation. Also, the School has the right to seek for the presence of legal counsel during the proceedings.
- 4.6 Before pursuing an application for judicial review with respect to any decisions made under this UME Academic Appeals Policy or under any other related policies and procedures as approved by the NOSM Academic Council or its subcommittees ("internal processes"), a student must first exhaust any available adequate alternative remedies under the internal processes. Should a student not exhaust the available adequate alternative remedies under the internal processes prior to pursuing an application for judicial review, the SAPC may immediately cease any actions related to the assessment of the student that fall under the jurisdiction of the SAPC.

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		Undergoing review and revision at UMEC
	2018 03 01	Approved by UMEC
	pending	Academic Council for vote on approval
	pending	Joint Senates for vote on approval
	Pending	Lakehead Senate for vote on approval
	pending	Laurentian Senate for vote on approval



UME ACADEMIC APPEALS POLICY

Responsible Office(s): UME
Responsible Officer(s): Associate Dean UME
 Director, Assessment and Program Evaluation
Version: 5.0
Approved by: Lakehead Senate – May 11, 2016
 Laurentian Senate – May 17, 2016

Policy

UME Academic Appeals Policy				Class: A	
Approved By:	UMEC - 2018 03 01 Pending: Academic Council Pending: Joint Senate Pending: Lakehead Senate Pending: Laurentian Senate				
Approval Date:	Pending YYY MM DD	Effective Date:	Pending YYYY MM DD	Review Date:	TBD YYYY MM DD
Responsible Portfolio/Unit/Committee:	UME / SAPC				
Responsible Officer(s):	Associate Dean UME Chair, SAPC				

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 by the SAPC.

The appeal letter and all supporting documentation should be sent via email to the following email address: UMEAppeals@nosm.ca

2.1.1 Where the grade or assessment being appealed is part of the Theme Requirements in the Promotion, Reassessment & Remediation Plan, the request for appeal should be addressed 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, Reassessment & Remediation Plan, the request for appeal should be addressed to the Chair/Assistant Dean/Director of the appropriate Phase Committee. If the Theme or Phase Chair/Assistant Dean/Director is the faculty member who provided the grade or assessment that is being appealed, the request for appeal should be addressed 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 Assistant Dean, 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 with respect to the grade or assessment being appealed. 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 also~~ meet with the faculty member(s) responsible for the grade or assessment being contested/ appealed 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~~ where applicable), 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 ~~;~~ or
- (d) The assessment of the student shall be altered in some way (for example, a specific comment stricken) and 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, if possible within ~~four~~ (five (5)) 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~~ 2.5 A student ~~does not agree with the wishing to challenge a~~ decision ~~after made following~~ an appeal under Section 2, ~~the student~~ 3 shall have the right, within ten (10) working days of receiving notice of the decision, to request a review of the decision

by the SAPG Academic Council Appeals Committee (ACAC) in a formal hearing, as per the NOSM Policy Regarding Academic Appeals. When submitting the request to the SAPGACAC Chair, the student shall specify the grounds for the review and shall provide the SAPGACAC with all necessary supporting documents. The grounds for such review are limited to the following: a) There is evidence of a factual error or procedural irregularity in the consideration of the appeal letter at a previous level of decision; and all supporting documentation should be sent via email to the following email address:

~~3.2 Within seven (7) working days of receiving the notice from b) that the previous body did not adhere to 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. principles of natural justice during the process.~~

~~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;~~

~~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~~

~~b) 2.6 The decision of the Theme Chair or Phase Committee Chair and what remedy the student seeks.~~

~~e) 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(s) made the under Section 2.3 shall prevail and remain in effect unless and until altered by any decision of the ACAC 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 review (NOSM Policy Regarding Academic Appeals), or by any 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.~~

~~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 of the Joint Senate Committee for NOSM sites (the "JSC") in its review (as per the Joint Senate Committee Process for Appeal Review).~~

~~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

3. APPEALS OF A PROMOTION DECISION

3.1 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~~these requirements for promotion as defined in the Student Assessment & Promotion Regulations, and communicate the decision to the student.

43.2 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~~with respect to promotion.

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. 3.3 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 ACAC within 10 working days of receiving the SAPC decision regarding promotion, according to the terms of the NOSM Policy Regarding Academic Appeals. Any decision of the SAPC made under Section 3.1 shall prevail and remain in effect until altered by the decision of the ACAC in its review or the decision of the Joint Senate Committee for NOSM (the “JSC”) in its review (as per the Joint Senate Committee Process for Appeal Review).~~

~~5.~~

4. MISCELLANEOUS

~~54.1~~ 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).

~~54.2~~ 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~~associated with NOSM, to that person’s email address as assigned by NOSM;
- iii. in the case of a committee associated with NOSM, to the email address assigned by NOSM to the Chair of that committee; or
- iv. in the case of notice to any other person 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.

~~54.3—~~ Following the conclusion of any proceedings under this UME Academic Appeals Policy, all evidence, documentation, and information provided by the student to the adjudicator(s) will be forwarded to the Chair of SAPC Subcommittee for filing and shall be kept confidential.

4.4 To accommodate the requirements of the student, faculty, or others, any process provided for under this UME Academic Appeals Policy can be conducted by members of the SAPC Subcommittee via video or teleconferencing utilizing the video or teleconferencing

facilities available at the Sudbury and Thunder Bay campuses of NOSM or other NOSM sites, subject to the discretion of the applicable adjudicator(s).

~~5.4~~ Appellants have the right to seek legal counsel and to be represented by another person or legal counsel in any aspect of these appeals processes. ~~Parties~~ 4.5 Students making an appeal to an adjudicator(s) under this UME Academic Appeals Policy have the right to the presence legal counsel in the proceedings, but students are responsible for presenting their own case to the adjudicator(s), except to the extent otherwise determined by the adjudicator(s). Appellants are responsible for paying their own costs associated with any such representation or consultation. Also, the School has the right to seek for the presence of legal counsel during the proceedings.

4.6 Before pursuing an application for judicial review with respect to any decisions made under this UME Academic Appeals Policy or under any other related policies and procedures as approved by the NOSM Academic Council or its subcommittees (“internal processes”), a student must first exhaust any available adequate alternative remedies under the internal processes. Should a student not exhaust the available adequate alternative remedies under the internal processes prior to pursuing an application for judicial review, the SAPC may immediately cease any actions related to the assessment of the student that fall under the jurisdiction of the SAPC.

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Northern Ontario
School of Medicine
École de médecine
du Nord de l'Ontario
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NORTHERN ONTARIO SCHOOL OF MEDICINE

Action Briefing Template

To: Joint Senate Committee

Date of Meeting: April 26, 2018

Submitted By: Secretary

Responsible: Academic Council & JSC

Portfolio:

Subject: Vote on approval of the revised Joint Senate Committee Terms of Reference and the JSC Process for Appeal Review document

For Approval

For Recommendation

For Discussion

MOTION #1: (Submitted to the Senate Organization Committee)

MOVED THAT the revised Joint Senate Committee for NOSM Terms of Reference be approved as presented.

MOTION #2:

MOVED THAT, the Joint Senate Committee for NOSM Process for Appeal Review document is retired.

KEY POINTS

With the recommendations and changes to NOSM's Policy Regarding Academic Appeals and the Academic Council Appeals Committee Terms of Reference, as well as the change to the JSC Terms of Reference, the process for Appeal and the composition of the committee is detailed in the NOSM's Policy Regarding Academic Appeals and the Academic Council Appeals Committee Terms of Reference and therefore the process document is no longer required.

NEXT STEPS: The changes must be approved in sequential order in order for this document to be retired. For Example, the changes in the NOSM Policy and Terms of Reference need to be accepted by the Senates before retiring this process.

SUPPORTING DOCUMENTS: JSC Process for Appeal Review

**JOINT SENATE COMMITTEE FOR NOSM
Terms of Reference
APPROVED VERSION**

Purpose

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.

Role and Function

1. The Committee will review only proposals approved by the Academic Council for NOSM.
2. The Committee will be able to consult as necessary.
3. The Committee will be able to recommend acceptance of proposals it has reviewed to the Senates of both Lakehead and Laurentian Universities.
4. The Secretary to the Academic Council will be the Secretary to the Joint Senate Committee and provide administration assistance for this committee.
5. Any recommendation that the Committee makes must go to both Senates and must be the same for both.
6. Rejection or referral back of a Committee recommendation by either Senate will be deemed rejection or referral back by both Senates.
7. Any recommendation rejected or referred back to the Committee that is subsequently revised must go back to both Senates

Appeals

Pursuant to the NOSM Policy Regarding Academic Appeals, the Academic Council Appeal Committee will be drawn from a Committee Panel and will be convened to learner appeals based on an academic decision rendered by any Northern Ontario School of Medicine (“NOSM” or “School”) program or committee under the purview of the Academic Council (the “Council”) making a promotion, withdrawal decision or finding of unprofessional behaviour.

The membership of the Committee Panel will include the Chair of the Joint Senate Committee for NOSM (or designate), who shall serve as Chair of the Committee Panel and two (2) additional members of the Joint Senate Committee appointed by the Joint Senate Committee for a period of two academic years, running from July 1 to June 30.

Certain terms of service may survive beyond a member’s term of appointment.

Composition

Each University will select six (6) voting members for the Joint Senate Committee for NOSM.

Laurentian Composition

- 1 Vice-President Academic and Provost or designate*
- 1 representative from NOSM
- 3 faculty members
- 1 NOSM Student from an Association representing NOSM Students¹
- Secretary of Senate, or designate (non-voting)

Lakehead Composition

- 1 Provost and Vice President (Academic) *
- 1 Chair or delegate from the Senate Undergraduate Studies Committee (appointed for the year by SUSC, if different from the chair)
- 1 Faculty Senator elected by Lakehead Senate (3 year term)
- 1 Faculty member, recommended to Senate through the Senate Nominating Committee (3 year term)
- 1 individual from Lakehead University with expertise in a health related area, elected by Lakehead Senate. The individual may qualify through a teaching or research specialization (3 year term)
- 1 student selected by the Lakehead University Student Union
- Secretary of Senate or designate (non-voting)

If the Provost & Vice President (Academic) is absent, the Deputy Provost or designate may attend meetings as a voting member [if applicable]

A non-voting representative from NOSM will sit on the Committee to assist, appointed by the Dean of the Medical School.

Terms of Office

- Faculty members: three-year terms (renewable)
- Student members: one-year terms (renewable)

Organization

The Chair will be elected annually by the Committee from among voting members at the first meeting of each academic year.

The Committee may meet by video and/or audio conference.

A minimum of seven (7) days' notice shall be given for all meetings except that a meeting may be held at any time without due notice if all members of the Committee are able to be present and/or consent thereto.

A quorum for the transaction of business at a Joint Senate Committee meeting shall be 50 % plus one member (7 of 12) or a simple majority of the filled positions.

A member who is absent from a scheduled committee meeting more than three (3) times per academic year will have his or her membership on the committee automatically terminated unless determined otherwise by the Chair.

DO NOT REMOVE THIS VERSION RECORD FROM THIS DOCUMENT		
Version	Date	Authors/Comments
V1.0	June 19, 2007	April 24 2007 Revision by JSC - Approved by Lakehead Senate May 14, 2007 and Laurentian Senate June 19, 2007
V2.0	January 23, 2009	Amendments Laurentian Senate September 16, 2008 & Lakehead Senate January 23 2009 [¹ Motion from Laurentian University Senate on Tuesday, September 16, 2008 passed the change to the Laurentian University Senate Bylaw Chapter X Article 9.(1)]
V2.1	January 20, 2012	Amendments to Lakehead University Membership January 20, 2012
V3.0	September 16, 2013	March 15, 2013 JSC recommendations – Approved at Lakehead U Senate September 16, 2013 / Laurentian U Senate April 17, 2013
V.3.1	October 20, 2014 (LkU)	Presented April 2014. Edits to Terms of Reference to be consistent with changes and creation of the NOSM Appeals Policies.
v.40	Pending	Revisions 2018 due to appeal changes in NOSM documents

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2. The Committee will be able to consult as necessary.
3. The Committee will be able to recommend acceptance of proposals it has reviewed to the Senates of both Lakehead and Laurentian Universities.
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5. Any recommendation that the Committee makes must go to both Senates and must be the same for both.
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- 1 Faculty member, recommended to Senate through the Senate Nominating Committee (3 year term)
- 1 individual from Lakehead University with expertise in a health related area, elected by Lakehead Senate. The individual may qualify through a teaching or research specialization (3 year term)
- 1 student selected by the Lakehead University Student Union
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A non-voting representative from NOSM will sit on the Committee to assist, appointed by the Dean of the Medical School.

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Organization

The Terms of Reference for this Committee are:

1. The Chair will be elected annually by the Committee from among voting members at the first meeting of each academic year.
2. The Committee may meet by video and/or audio conference.
3. A minimum of seven (7) days' notice shall be given for all meetings except that a meeting may be held at any time without due notice if all members of the Committee are able to be present and/or consent thereto.
4. The Committee will review only proposals approved by the Academic Council for NOSM.
5. The Committee will be able to consult as necessary.
6. The Committee will be able to recommend acceptance of proposals it has reviewed to the Senates of both Lakehead and Laurentian Universities.
7. The Secretary to the Academic Council will be the Secretary to the Joint Senate Committee and provide administration assistance for this committee.
8. Any recommendation that the Committee makes must go to both Senates and must be the same for both.
9. Rejection or referral back of a Committee recommendation by either Senate will be deemed rejection or referral back by both Senates.
10. Any recommendation rejected or referred back to the Committee that is subsequently revised must go back to both Senates
11. Each university will select six (6) voting members for the Joint Senate Committee for NOSM.

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- 1 student selected by the Lakehead University Student Union

*If the Provost & Vice President (Academic) is absent, the Deputy Provost or designate may attend meetings as a voting member [if applicable]

- 12. A non-voting representative from NOSM will sit on the Committee to assist, appointed by the Dean of the Medical School.
- A quorum for the transaction of business at a Joint Senate Committee meeting shall be 50 % plus one member (7 of 12) or a simple majority of the filled positions.

14. A member who is absent from a scheduled committee meeting more than three (3) times per academic year will have his or her membership on the committee automatically terminated unless determined otherwise by the Chair.

15. The JSC will establish a subcommittee to hear Appeals, consisting of three (3) members, the Chair or designate plus two voting members from the Joint Senate Committee, to review the decision of the Academic Council Appeals Committee.

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Version	Date	Authors/Comments
V1.0	June 19, 2007	April 24 2007 Revision by JSC - Approved by Lakehead Senate May 14, 2007 and Laurentian Senate June 19, 2007
V2.0	January 23, 2009	Amendments Laurentian Senate September 16, 2008 & Lakehead Senate January 23 2009 [1 Motion from Laurentian University Senate on Tuesday, September 16, 2008 passed the change to the Laurentian University Senate Bylaw Chapter X Article 9.(1)]
V2.1	January 20, 2012	Amendments to Lakehead University Membership January 20, 2012
V3.0	September 16, 2013	March 15, 2013 JSC recommendations – Approved at Lakehead U Senate September 16, 2013 / Laurentian U Senate April 17, 2013
V.3.1	October 20, 2014 (LkU)	Presented April 2014. Edits to Terms of Reference to be consistent with changes and creation of the NOSM Appeals Policies.
<u>v.40</u>	<u>Pending</u>	<u>Revisions 2018 due to appeal changes in NOSM documents</u>

JOINT SENATE COMMITTEE PROCESS FOR APPEAL REVIEW

Approved: Lakehead Senate (April 14, 2014)
Laurentian Senate (April 15, 2014)

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.”

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 Appeals to the Joint Senate 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.

¹ NOSM Policy Regarding Appeals Section 5.0 Further Appeals

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 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 JSC must include:

- a. the membership of the JSC or subcommittee of the JSC which heard the appeal
- 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:

Secretary to the Joint Senate Committee
Northern Ontario School of Medicine
(705) 662-7206

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Version	Date	Authors/Comments
V1.0	April 14 & 15, 2014	Process removed from the Student Promotion and Appeals Policy and made a stand-alone document. Approved by the Lakehead and Laurentian Senate on April 14 & 15, 2014.