

THE UNIVERSITY OF BRITISH COLUMBIA | OKANAGAN



OKANAGAN SENATE SECRETARIAT

Enrolment Services

Senate and Curriculum Services

3333 University Way

Kelowna, BC · V1V 1V7

Tel: (250) 807-9259 · Fax: (250) 807-8007

www.senate.ubc.ca

May 19, 2010

To: Okanagan Senate

From: Appeals of Standing and Discipline Committee

Subject: 2009-2010 Annual Report on Committee Activities (information)

Committee Terms of Reference:

Delegated authority over the following by Senate:

- A. Appeals of decisions of the President on student discipline;
- B. Appeals of final decisions of Faculties on academic standing; and
- C. Appeals of final decisions of Faculties on promotion/advancement.

Following general legislative practice for a standing committee exercising delegated authority of a larger assembly, the Committee makes an annual report to Senate including the number of appeals heard, their disposition, and the general nature of the appeals.

The Okanagan Senate Appeals of Standing and Discipline Committee is a standing committee of the Okanagan Senate established under section 37(1)(v) of the *University Act*, R.S.B.C. 1996, c.468 as the “standing committee in the final appeal for students in matters of academic discipline.” The Committee also serves as the mechanism for student appeals of faculty decisions under section 40(g).

A. Student Discipline

Under section 61(1) of the *University Act*, the “president has power to suspend a student and to deal summarily with any matter of student discipline.” Under section 61(2), the President “must promptly report the action of the standing committee established under section 37(1)(v) with a statement of his or her reasons.” Under section 6(3), the “action of the president is final and subject in all cases to an appeal to the Senate.”

Student discipline is governed by the Policies and Regulations section of the UBC Calendar (see Policies and Regulations, Student Discipline <http://www.calendar.ubc.ca/okanagan/index.cfm?tree=3,54,0,0>).

1. Academic Misconduct:

Since May of 2009, the Committee has heard one (1) appeal. Appeals can be dismissed or allowed; this appeal was dismissed.

Appeals Dismissed:

The student was disciplined for failing to disclose attendance at another university. The discipline imposed by the President was a suspension from the University for a period of 8 months and a notation of academic misconduct entered on the student's transcript. The student appealed with respect to the severity of the disciplinary action, namely that the period of suspension was excessive.

2. Non-Academic Misconduct:

The Committee shall allow an appeal where it is decided that one or more of the following has occurred:

1. The President incorrectly determined that the conduct of the student, either admitted or as found by the President, constitutes misconduct or the President incorrectly applied a University policy or procedure.
2. The student has material evidence that was not reasonably available at the time of the President's Committee hearing.
3. There was a breach or unfair application of the University's procedure prior to the President's Committee hearing that was raised before the President's Committee but not adequately remedied through the President's Committee.
4. The procedure of the President's Committee was unfair or operated unfairly, in that there was bias or a lack of independence in the President's Committee, or the President's Committee's procedures were unfairly applied or breached, or that the President gave insufficient reasons for his or her decision.
5. The President erred in the President's assessment of the evidence in the President's Committee's report, including any factual inferences made by the President, or the credibility of the student or other witnesses.
6. The discipline imposed by the President was excessive.

Since May of 2009, the Committee has heard five (5) appeals. Appeals can be dismissed or allowed: three (3) appeals were allowed, two (2) were dismissed.

Appeals Allowed:

The student appealed discipline issued by the President for involvement in a violent confrontation on campus. The discipline imposed by the President was a letter of reprimand, suspension from the University for a period of 16 months, a notation of discipline entered on the student's transcript, the requirement of proof of counseling for prevention of alcohol abuse and violence prior to the student being permitted to register for further courses, and the placement of the student on probation for the remainder of the student's studies at UBC.

Appeal allowed: The Committee held that the President erred in the assessment of the evidence and remitted the matter back to the President for reconsideration of the discipline.

The student appealed discipline issued by the President for involvement in a violent confrontation on campus. The discipline imposed by the President was a letter of reprimand, a notation of discipline entered on the student's transcript, the requirement of proof of counseling for prevention of alcohol abuse and violence prior to the student being permitted to register for further courses, and the placement of the student on probation for the remainder of the student's studies at UBC.

Appeal allowed: The Committee held that the President erred in the assessment of the evidence and quashed the decision of the President.

The student appealed discipline issued by the President for involvement in a violent confrontation on campus. The discipline imposed by the President was a letter of reprimand, the requirement of proof of counseling for prevention of alcohol abuse and violence prior to the student being permitted to register for further courses, and the placement of the student on probation for the remainder of the student's studies at UBC.

Appeal allowed: The Committee held that the President erred in the assessment of the evidence and quashed the decision of the President.

Appeals Dismissed

The student was disciplined for non-academic misconduct for being involved in a violent confrontation on campus. The discipline imposed by the President was a letter of reprimand, suspension from the University for a period of 12 months, a notation of discipline entered on the student's transcript, the requirement of proof of counseling for prevention of alcohol abuse and violence prior to the student being permitted to register for further courses, and the placement of the student on probation for the remainder of the student's studies at UBC. The student appealed with respect to the severity of the disciplinary action, namely that the period of suspension as excessive.

The student was disciplined for non-academic misconduct for being involved in a violent confrontation on campus. The discipline imposed by the President was suspension from

the University for a period of 8 months, a notation of discipline entered on the student's transcript, the requirement of proof of counseling for prevention of alcohol abuse and violence prior to the student being permitted to register for further courses, the placement of the student on probation for the remainder of the student's studies at UBC, and a ban preventing the student from attending The Well for the duration of the student's time on campus. The student appealed with respect to the severity of the disciplinary action, namely that the period of suspension as excessive.

B. Academic Standing

The Okanagan Senate has delegated to the Appeals of Standing and Discipline Committee the authority to hear and dispose of student appeals from decisions of faculties in matters of academic standing. The Committee shall allow an appeal where it is decided that the decision of the Faculty was arrived at through improper or unfair procedures, and that as a result, a wrong decision may have been arrived at; however, the Committee has no jurisdiction where the sole question raised in an appeal turns on the exercise of academic judgment by a faculty member. The Okanagan Senate has conferred on the Committee the power of making final decisions pursuant to section 37(1)(b) of the *University Act* (see UBC Okanagan Calendar, Policies and Regulations, Senate Appeals on Academic Standing, section 2: <http://www.calendar.ubc.ca/okanagan/index.cfm?tree=3,53,106,0>).

Students may also appeal to the Committee for contravention of procedure with respect to Grade Appeals (see UBC Okanagan Calendar, Policies and Regulations, Grade Appeals <http://www.calendar.ubc.ca/okanagan/index.cfm?tree=3,294,879,0>).

Since May of 2009, the Committee has heard one (1) appeal. Appeals can be dismissed or allowed; this appeal was allowed.

Appeals Allowed:

The student appealed the decision of the Grade Appeal Committee dismissing the student's grade appeal of a failing course grade. The Committee held that the decision had been arrived at through improper or unfair procedures and that, as a result, a wrong decision on the merits had or may have been arrived at. The Committee quashed the decision of the Grade Appeal Committee and remitted the matter back to the Grade Appeal Committee for a re-hearing.

General Observations

Student Discipline

The Committee acknowledges the rapid growth of UBC Okanagan and the campus' relative inexperience in handling serious offences, but would like to express several concerns around the handling of the series of non-academic misconduct cases by Campus Security and the Okanagan President's Advisory Committee on Student Discipline (PACSD).

The Committee found that students were not made aware of the seriousness of the allegations against them and of the discipline they would face were they found to have misconducted themselves. Reports from Campus Security were at times inaccurate, incomplete, and difficult to reply upon for factual information. With regards to PACSD, deadlines and processes were not always properly followed and the Committee found the hearings to have breached several principles of natural justice. The Committee finds that were it not for these errors fewer cases would have proceeded to appeal.

The Committee is pleased to acknowledge several initiatives undertaken in the past year in part as a response to the seriousness of the misconduct cases and in support of students:

1. A new Discipline for Non-Academic Misconduct: Student Code of Conduct (included in the online Calendar at www.okanagan.students.ubc.ca/calendar/index.cfm?tree=3,54,1030,0);
2. Offering of a one-day workshop in the Okanagan on Administrative Justice sponsored jointly by the Office of the University Counsel, the Provost, the Vice-President, Research, the Vice-President, Students, and the Office of the Deputy Vice-Chancellor; and
3. The opening of a community policing station to help the existing Campus Security personnel work in partnership with the RCMP by sharing the delivery of policing services on campus.

Academic Misconduct

The Committee wishes to draw to the attention of faculty and departments the importance of following due process in all matters relating to student assessment, promotion and appeal; of maintaining scrupulous records of course requirements, grade schemes, and student performance; as well as drawing such regulations and requirements to the attention of students. The Committee would also like to emphasize the importance of notifying students of their right of appeal to the Senate Committee when issuing faculty decisions on academic standing.

Overall

On a system level, the Committee would like to recognize the need and express its support for access to ombudsperson services for UBC Okanagan students.

And finally, as a critique of itself, the Committee would like to further commit to ensuring that students engaged in the appeals process receive justice in as swift a manner as possible under the rules.

For the Committee,
Mr. Neil Cadger
Chair, Appeal of Standing and Discipline Committee

2009-2010 Committee Members:

Mr. Neil Cadger (Chair)
Ms. Lindsay Amantea
Ms. Stephanie Bertrand
Dr. Fes de Scally
Ms. Lesley Driscoll
Dr. Gareth Jones
Mr. Jon Kent
Ms. Laura Patterson
Dr. Bernard Schulz-Cruz
Mr. James Ridge (non-voting)