

# APPEALS – PROCEDURES AND GUIDELINES

## General

Students who disagree with a decision have access to appeal routes as laid out by various Faculty of Graduate Studies and University of Manitoba appeal procedures. Student appeals may be limited by the scope of the inquiry available at each level and category of appeal, as well as by the time restrictions for submission of appeals. In all cases, students are encouraged to work with a Student Advocate and make use of other available supports as needed when considering and/or pursuing the appeals process.

A further limitation is that the Faculty of Graduate Studies rules and regulations, established to uphold the academic rigour of the University of Manitoba, are generally not subject to appeal unless an appeal route is otherwise stipulated. In situations where no formal appeal route is available, a student may make a request to the Dean of the Faculty of Graduate Studies. Requests falling outside the scope of an appeal process are not appealable to a subsequent higher authority.

Students are referred to the appeals section of the University of Manitoba Governing Documents (<https://umanitoba.ca/governance/governing-documents/>) for further details.

For students registered in Joint Master's Programs (University of Manitoba and University of Winnipeg), there is a different process for handling academic and disciplinary appeals cases than is used for University of Manitoba students in regular programs (not Joint Programs). This process is outlined in the Joint Master's Program Governing Regulations (<https://umanitoba.ca/graduate-studies/sites/graduate-studies/files/2021-03/jmp-regulations-2017.pdf>).

## Definitions

- “Academic Decisions” – decisions pertaining to student academic performance and/or progress in a program of study that are not disciplinary in nature.
- “Appellant” – the graduate student appealing a decision affecting the student's own admission to, academic standing in, awards from or disciplinary action by a department/unit or the Faculty of Graduate Studies;
- “Appeal Hearing” (or “Hearing”) – a meeting of the Appeal Panel, Appellant, and Respondent(s) that involves oral and/or written testimony and results in a decision on the outcome of the appeal.
- “Appeal Panel” – a group convened from the members of the Faculty of Graduate Studies Appeals Committee empowered to assess and issue decisions on appeals stemming from decisions of departments/units or the Faculty of Graduate Studies, or individuals designated to make such decisions.
- “Respondent” – a representative of the Faculty of Graduate Studies designated by the Dean of the Faculty of Graduate Studies to represent the Faculty of Graduate Studies in an appeal response or hearing. In this document, “Respondent” may also refer to a “Co-respondent” invited by the Respondent to represent the department/unit unless otherwise noted.
- “Unit” – the department/unit, office, or administrative body (excluding the faculty of Graduate Studies) whose decision is being appealed. This is understood to include decisions taken by individuals or

committees acting in the name of the department/unit and also to the supplementary regulations pertinent to a department/unit's operation which have been approved by the Faculty of Graduate Studies.

## Types of Appeal

Several areas of appeal are available to appellants:

- admission;
- academic;
- discipline;
- other (e.g., fee, term work and final grade appeals).

In all cases, appeals should be addressed to the Dean of the Faculty of Graduate Studies. Appeals of decisions made by the Dean will be referred to an Appeal Panel of the FGS Appeals Committee. A decision of the Faculty of Graduate Studies Appeal Panel is appealable only to the Senate Committee on Appeals or the University Discipline Committee, as appropriate. In all cases, an appellant shall have the option of being registered in, and undertaking the responsibilities of, their program, until such time as they have exhausted the university appeal process or the appellant decides not to appeal further, whichever comes first.

A flow chart of the University of Manitoba Appeals Processes is available at this link (<https://umanitoba.ca/sites/default/files/2020-04/appeal-procedures-for-students.pdf>).

## Admission Appeals

Please refer to University of Manitoba Governing Documents: Students: Policy: Admission Appeals Procedures and Guidelines (<https://umanitoba.ca/governance/governing-documents-students/#senate-committee-on-admission-appeals>).

## Academic Appeals

Academic Appeals are appeals concerning academic decisions made by the department/unit and/or the Faculty of Graduate Studies.

## Appeal Considerations

The Faculty of Graduate Studies will consider appeals:

- stemming from a decision of a department/unit on academic matters (e.g. first failure of a candidacy examination) only after they have been addressed via the appropriate department/unit-level appeal process (if any), as is outlined in the department/unit supplementary regulations;
- stemming from a decision of the Faculty of Graduate Studies (e.g. Required to Withdraw) which may follow the recommendation of a department/unit.
- stemming from a negative decision from the Registrar's Office on a final grade or term work grade appeal.

In all cases, appeals should be addressed to the Dean of the Faculty of Graduate Studies.

A decision of the Appeal Panel is appealable only to the Senate Committee on Appeals (<https://umanitoba.ca/governance/governing-documents-students/#senate-committee-on-appeals>).

## Composition of an Appeal Panel

Faculty members or students are disqualified from participating on an Appeal Panel if they:

- hold any academic appointment in the department/unit in which the appellant is registered;
- are/were a student in the department/unit in which the appellant is registered;
- were, as an individual, or as a member of a committee or board, responsible for making the decision being appealed.

**Note:** All members of an Appeal Panel shall participate in all of the deliberations essential for the determination of the matter in dispute. If, in the course of hearing an appeal, a member is not present at the commencement of the hearing or a member cannot continue, the Panel may elect to proceed in the absence of that member. If more than one (1) member is not present at the commencement or cannot continue, the Appeal Panel must adjourn the proceedings.

## Grounds for an Academic Appeal

It shall be the responsibility of the appellant to indicate clearly and specifically the grounds warranting consideration of the appeal and to provide all relevant information and documented evidence that should be considered in the adjudication of the appeal.

The Appeal Panel shall only consider an appeal if there is evidence that:

- the department/unit or the Faculty of Graduate Studies failed to follow the rules of natural justice\*;
- the department/unit or the Faculty of Graduate Studies failed to follow procedures;
- a department/unit or Faculty of Graduate Studies regulation has been unfairly or improperly applied, or has become inapplicable through lapse of time;
- there are documented mitigating circumstances (e.g., medical, compassionate);
- there is apparent conflict between a Senate Regulation, a Faculty of Graduate Studies policy and/or a department/unit regulation.

\*The Supreme Court of Canada defines “natural justice” in its simplest form as “fair play in action”; in other words, “natural justice” describes the fairness of procedures and how they are executed (as opposed to whether procedures were followed). In the context of academic decisions and appeals, this includes but is not limited to:

- the right of the appellant to know that a matter is under consideration and the nature of the matter being considered (e.g., academic performance, appeal);
- the right of the appellant to know what evidence has been given and what statements have been made affecting them;
- the right of the appellant to be heard (i.e., to be able to respond to any statements and decisions that may affect them);
- the decision must be based on evidence and communicated clearly; and
- the decision maker must be free of bias and there must be no perception of bias.

## Appeal of a Faculty of Graduate Studies Decision

A complete appeal of decisions made by any department/unit, committee, administrator (e.g., Associate Dean), or faculty member within the Faculty of Graduate Studies must be submitted in writing by the

appellant to the Dean of the Faculty of Graduate Studies within fifteen (15) working days of the date that the appellant was informed in writing of the action to be appealed. This is considered a first-level appeal. The appellant will be informed of the outcome in writing.

## Faculty of Graduate Studies Academic Appeals Process

### Submission of Appeal Package

The Appellant must submit a complete appeal package consisting of an appeal form, a letter clearly explaining their grounds for appeal, a copy of the letter of decision from the previous appeal level, a copy of all the documentation submitted to the previous appeal level, if not a first-level appeal, and any relevant supporting documentation to the Faculty of Graduate Studies within fifteen (15) working days. Incomplete appeals may not be considered.

Upon receipt of a formal appeal, the Dean of the Faculty of Graduate Studies may, at their discretion, consider the appeal or forward it to an Appeal Panel. If the Dean considers the appeal, the student shall be informed of the outcome in writing. Otherwise, the appeal will be adjudicated by an Appeal Panel.

### Faculty of Graduate Studies Appeals Committee

The appellant may appeal the Dean’s decision to the Faculty of Graduate Studies Appeals Committee within fifteen (15) working days of the date of the letter of decision. This is considered a second-level appeal.

An Appeal Panel will be composed of members of the Appeals Committee. The Appeal Panel will determine whether the appeal falls within their jurisdiction and, if so, whether the appellant has sufficiently substantiated their identified grounds for appeal to warrant proceeding to a Hearing. If the Appeal Panel determines that the appellant has not substantiated their grounds for appeal, the matter will not proceed to a Hearing and the appellant and Dean of Graduate Studies will be notified in writing. If the Appeal Panel determines that the appellant has substantiated their grounds for appeal, the appellant and Dean of Graduate Studies will be notified and a Hearing scheduled.

If it is determined that the appeal will proceed to a hearing, the Appeal Panel may request additional information or request oral and/or written testimony from identified witnesses.

### Hearing Procedures

The Faculty of Graduate Studies shall inform the appropriate Department/Unit Head (or designate) of the nature of the appeal and request that they accompany the Faculty of Graduate Studies respondent as a co-respondent at the Hearing. The co-respondent will be requested to provide a letter responding to the appeal no later than fifteen (15) working days before the date of the Hearing. The respondent will be requested to provide a letter addressed to the Chair of the Appeal Panel no later than ten (10) working days prior to the hearing.

The appellant shall be advised by the Dean of the Faculty of Graduate Studies of the right to appear in person and/or to be represented by a student advocate, a fellow student, or other full-time member of the University community not receiving payment for appearing or working for legal aid. It is highly encouraged that the student be represented by a student advocate. Students who require specific accommodations to participate in a Hearing should advise the Faculty of Graduate Studies when submitting their appeal or as soon as possible thereafter.

The appellant may be accompanied by one (1) support person (friend or family) and/or legal counsel, subject to the following:

- Accompanying individuals may only attend as silent observers (i.e., they cannot participate in the proceedings);
- The Faculty of Graduate Studies must be notified of the appellant's intent to bring a support person to the Hearing at least ten (10) working days prior to the date of the Hearing;
- The Faculty of Graduate Studies must be notified of the appellant's intent to bring legal counsel to the Hearing at least twenty (20) working days prior to the date of the Hearing, and reserves the right to bring a representative from the University of Manitoba's Legal Counsel once this notice is received.

The appellant, respondent, and appeal panel shall have the right to call witnesses to appear before the panel. Witnesses are to be made available for questioning only and will not be privy to the appeal documents or the hearing proceedings in which they are not involved. The appellant must indicate their witness request in their appeal letter. The respondent shall indicate their desire to invite a witness to the Chair of the Appeal Panel no later than five (5) working days after receiving notice that the appeal will proceed to a hearing. It is the responsibility of the party calling witnesses to ensure that the witnesses are informed of the date and time of the hearing.

The Faculty of Graduate Studies will notify the Appeal Panel, appellant, and respondent of the date, time, and location and/or virtual platform of the Hearing, and will provide these parties with a Hearing Package containing all documentation to be considered in the adjudication of the appeal at least one (1) week in advance of the scheduled Hearing date. **No additional materials are to be presented at the time of the hearing.** In the case where a request is made to submit additional materials, the Chair may adjourn or postpone the hearing and allow no more than ten (10) working days for the other party to respond to the new materials.

Hearings shall be held in closed session unless at least one (1) party requests an open hearing and all parties involved in the proceedings agree to the request. During the hearing, the appellant or the respondent may request a change in the open or closed nature of the hearing, at which time the Appeal Panel shall determine, *in camera*, whether to grant this request.

The Appeal Panel shall convene prior to the arrival of the appellant (and/or representative) and the respondent to discuss the order of proceedings and questions raised by the appeal documents.

The order of proceedings is as follows:

- The appellant and/or representative will be invited to make an opening statement, followed by rounds of questioning by the Panel and then the respondent;
- The respondent will be invited to make an opening statement, followed by rounds of questioning by the Panel and then the appellant and/or representative;
- The Panel will have the opportunity to ask further questions of all parties;
- If applicable, witnesses will be called upon to enter the room individually. The Panel, appellant and/or representative and respondent will have the opportunity to ask questions;
- The appellant and/or representative and respondent will make closing statements. No new information is permitted to be presented at this time;
- The Panel will deliberate *in camera* (i.e., closed session).

All deliberations and determinations of disposition shall be held *in camera*. Such deliberations shall consider all documentation provided by the appellant and respondent, as well as all testimonies heard during the hearing.

### Disposition

The Chair of the Appeal Panel shall inform the Dean of the Faculty of Graduate Studies in writing of the disposition of the appeal, the reasons for the decision, and any actions or recommendations resulting from the Panel's deliberations. The Dean of the Faculty of Graduate Studies shall, in turn, inform the appellant, their representative, and the department/unit in writing of the disposition of the appeal, the reasons for the decision and any actions or recommendations related thereto. The appellant shall be informed of their right of appeal to the Senate Committee on Appeals, including relevant time limits. The Dean of the Faculty of Graduate Studies may inform the department/unit of any recommendations brought forward by the Appeal Panel.

### Appeals to Senate

As per the University of Manitoba Governing Documents: Students: Policy: Appeals Procedures (<https://umanitoba.ca/governance/governing-documents-students/#senate-committee-on-appeals>), appeals to the Senate Committee on Appeals shall be filed with the University Secretary within twenty (20) working days after the mailing of the notice of decision from which the appeal is made.

## Discipline Appeals

The specific jurisdiction of each of the Disciplinary Authorities is outlined in:

- Table 1: Jurisdiction of Disciplinary Authorities for Student Academic Misconduct
- Table 2: Jurisdiction of Disciplinary Authorities for Student Non-Academic Misconduct
- Table 3: Disciplinary Actions and Disciplinary Authorities (<https://umanitoba.ca/governance/governing-documents/#students>)

If the appeal is from a decision of the Dean of the Faculty of Graduate Studies, the appeal must be submitted to the Dean of the Faculty of Graduate Studies who will submit it to the Faculty of Graduate Studies Local Discipline Committee (also commonly referred to as the "L.D.C.")

If the appeal is from a decision of the L.D.C., the appeal must be submitted to the Secretary of the University Discipline Committee (U.D.C.) (<https://umanitoba.ca/governance/governing-documents-students/#student-discipline>) who will provide the Dean of the Faculty of Graduate Studies with a copy.

### Discipline Appeal Deadlines

If a student wishes to appeal a decision, the notice of appeal must be delivered in writing to the appropriate person(s) within ten (10) working days of the student being notified of the decision the student intends to appeal.

### Appeal of Disciplinary Action

When the appeal is against a disciplinary decision made by the Faculty of Graduate Studies, the appeal routes and procedures as outlined in the following shall prevail: Student Discipline Appeal Procedure (<https://umanitoba.ca/governance/governing-documents/#students>).

The student shall clearly indicate in the notice of appeal whether they are appealing the decision on:

1. the finding of facts;
2. the disposition determined by the disciplinary authority; or
3. both (1) and (2).

## Other Appeals

### Fee Appeals

Please refer to the Registrar's Office webpage on fee appeals (<https://umanitoba.ca/registrar/tuition-fees/adjustments-refunds/>). To initiate the Fee Appeal process, the student must complete a Fee Appeal form, available at the former link. For information about Fee Appeals, please visit the Registrar's Office online or in person at 400 University Centre.

### Term Work Appeals

Students are encouraged to discuss matters relating to grading of term work with their instructor in the first instance. Further appeals of grades on academic term work shall be directed, by the appellant, to the department/unit responsible for the course within ten (10) working days after the grades for term work have been communicated to students. Following receipt of the appropriate appeal form and evidence of payment of the refundable appeal fee, the department/unit shall consider the appeal and provide a decision within fifteen (15) working days. Please refer to the Registrar's Office website (<https://umanitoba.ca/registrar/grades/appeal-grade/>) for additional information.

If the student has exhausted the term work appeals process through the Registrar's Office, the student may appeal to the Faculty of Graduate Studies via the academic appeals process. The Faculty of Graduate Studies will only consider the appeal based on procedural error.

### Final Grade Appeals

Please refer to the Registrar's Office webpage (<https://umanitoba.ca/registrar/grades/appeal-grade/>) on grade appeals. To initiate the Grade Appeal process, the student must complete a Grade Appeal form, available at the former link. For information about Grade Appeals, please visit the Registrar's Office online or in person at 400 University Centre.

If the student has exhausted the final grade appeals process through the Registrar's Office, the student may appeal to the Faculty of Graduate Studies via the academic appeals process. The Faculty of Graduate Studies will only consider the appeal based on procedural error.

## Assistance with Appeals

The Office of Student Advocacy & Case Management (<https://umanitoba.ca/student-supports/academic-supports/student-advocacy/>), 520 University Centre, provides information and assistance to students regarding all appeal processes. It is strongly recommended that students contact the Office of Student Advocacy & Case Management to assist them with any appeal they are considering.