Senate Committee on Disciplinary Appeals

SIMON FRASER UNIVERSITY

Policy and Procedures

Date
May 1, 2009

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S 10.03

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2.0

Policy Authority: Vice-President, Academic and Provost

Associated Procedure(s): None

1.0 PURPOSE

1.1 The purpose of this policy is to provide a student the means to appeal the severity of a penalty imposed by the University for academic dishonesty or academic misconduct.

2.0 SCOPE AND JURISDICTION

2.1 The Senate Committee on Disciplinary Appeals (SCODA) is the standing committee of final appeal for students:

2.1.1 in matters of academic discipline as mandated in the University Act pursuant to section 37(1)(v); and

2.1.2 in other matters as Senate or the Chair of Senate directs.

3.0 POLICY

3.1 SCODA Membership

3.1.1 SCODA is comprised of:

a. three faculty members and two alternate faculty members, who are not Chairs, Deans, or Vice-Presidents, elected by Senate for overlapping two-year terms; and

b. three students and two alternate students elected by Senate for one-year terms.

3.2 The Chair of SCODA must be a faculty member of SCODA elected annually by the voting members of SCODA. A Vice-Chair, who must be a faculty member, must be elected at the same time as the chair.
3.3 The Secretary of the Senate or his/her designate serves as a non-voting secretary to the Committee.

4.0 GROUNDS OF APPEAL TO SCODA

4.1 A student may appeal in writing to SCODA on one or more of the following grounds:

4.1.1 that a procedural error occurred of sufficient magnitude that it may reasonably be said to have affected the fairness of the process or altered the outcome of the case;

4.1.2 that a factual error occurred of sufficient magnitude that it may reasonably be said to have altered the outcome of the case;

4.1.3 that the penalty imposed on the student is excessive in all the circumstances of the case; or

4.1.4 that new, material evidence is available which, despite the exercise of due diligence by the party wishing to appeal, could not have been made available at the time of the hearing giving rise to the appeal.

4.1 Applications to SCODA should be addressed to: Secretary, Senate Committee on Disciplinary Appeals, Registrar's Office.

4.2 Any notice of appeal must be in writing and must be received by the Registrar's office within three (3) weeks of the decision that is the subject of the appeal.

4.3 In exceptional circumstances, a student or the University may apply to the Chair of SCODA for an extension of time to file the notice of appeal. The Chair of SCODA must decide whether or not to approve an extension. The decision of the Chair of SCODA is final.

4.4 The Registrar’s Office must inform the respondent and the President of the notice of appeal in writing and schedule a meeting of SCODA as quickly as possible.

4.5 The implementation of any penalty is stayed pending determination of the appeal by SCODA.

5.0 SCODA HEARINGS

5.1 SCODA, as an internal administrative body, must follow the principles of procedural fairness. Within that framework, it is free to develop procedures and practices to conduct appeals and is not constrained by strict rules of procedure and evidence.

5.2 The number of members of SCODA required to hear an appeal is two faculty members, two students, and the Chair. The quorum for other meetings of the committee is five members of the committee, including the Chair.

5.3 To ensure the impartiality of the Committee, no member with previous involvement in the case may hear the appeal.

5.4 The impartiality of any member of the Committee scheduled to hear an appeal may be challenged and will be determined by the Chair. If the impartiality of the Chair is challenged,
the other members of the hearing panel will determine the issue.

5.5 A SCODA hearing must be closed to the public. An appeal hearing may only be open to the public with the explicit written consent of the parties.

5.6 In exceptional circumstances, the Committee may permit the student to appear in absentia by delegate.

5.7 The student or representative must be given the opportunity to make a statement to the Committee to support the appeal.

5.8 The respondent may also appear at the appeal and be given an opportunity to make a statement. Where the appeal is under section 4.1.d the respondent is entitled to speak to the new evidence.

5.9 Both parties may be accompanied by a representative at the appeal and may be accompanied by a support person.

5.10 If the appellant fails to appear before the Committee at the appointed time, the Committee may, without further notice, proceed in such absence to determine the appeal.

5.11 If there are medical or compassionate reasons for non-appearance, the Secretary must be notified immediately. The Chair will determine the acceptability of such reasons and whether the appeal should be postponed.

5.12 Appeals must be based upon the record of the preceding hearing or decision and any other relevant documentation considered. The Committee may hear new evidence only when a case is being appealed under section 4.1.d.

6.0 SCODA DECISIONS

6.1 The deliberations of the Committee must be closed with no record kept.

6.2 The Chair must cast the deciding vote in the event of a tie. No member hearing the appeal may abstain.

6.3 Having heard the appeal, the Committee may find:

6.3.1 in favour of the student under section 4.1.a or 4.1.b, and substitute its own finding or order a new hearing;

6.3.2 in favour of the student under section 4.1.c and vary the penalty;

6.3.3 in favour of the student under section 4.1.d and substitute its own finding or order a new hearing; or

6.3.4 against the student, confirming the original decision that remains unchanged.

6.4 If the Committee determines that discipline of the student is unwarranted, the University must, if possible, take steps to return the student to the position they would have been in had the appealed
decision not been made. The responsibility for this will fall to the Registrar.

6.5 The decision on an appeal must be communicated in writing to the student, the person, or body who imposed the penalty and the President in writing as soon as possible after the decision has been made, with reasons. If SCODA recommends the revocation of a degree, that recommendation must be forwarded to Senate for action.

6.6 The decision of the Committee is final.

7.0 REPORTING

7.1 The Registrar or designate must maintain a statistical summary of cases handled through their offices each year, and these data must be included in the Annual Report to Senate on Student Discipline Matters.

7.2 In addition to the data referred to in section 6.1, the Annual Report on Student Discipline Matters must contain a summary of the UBSD Tribunal's findings, the President's decisions, SCODA's decisions, and the penalties imposed. This report must be accessible to the University community and must be submitted to Senate for information except where the Tribunal, SCODA, or the President determine that cases or parts of cases should not be disclosed. The Summary must not disclose the identities of the parties. A set of decisions that does not disclose the identities of the parties must be maintained in the office of the Secretary of the UBSD and be available for review upon reasonable notice.

8.0 RELATED LEGAL AND POLICY AUTHORITIES

8.1 The legal and other University policy authorities that may bear on the administration of this policy and may be consulted as needed include, but are not limited to:

8.1.1 University Act;

8.1.2 Student Academic Integrity Policy (S 10.01);

8.1.3 University Board on Student Discipline (S 10.02);

8.1.4 Retention and Disposal of Student Exams and Assignments (I 10.09); and

8.1.5 Student Conduct Policy.

9.0 ACCESS TO INFORMATION AND PROTECTION OF PRIVACY

9.1 The information and records made and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia’s Freedom of Information and Protection of Privacy Act and the University’s Information Policy series. To the extent possible, the information and records will be treated in a confidential manner, in compliance with the Act and with applicable University policies.

9.2 A University employee who is involved in addressing or investigating a case of academic dishonesty, academic misconduct, or non-academic misconduct must:

9.2.1 make every reasonable effort to protect personal information and maintain confidentiality;
9.2.2 collect the minimum information about individuals that relates directly to and is necessary to respond to a case of academic dishonesty or academic misconduct, which is considered to be supplied in confidence;

9.2.3 use the information about individuals only for the purposes of, or those consistent with, addressing the situation, investigating, or taking action;

9.2.4 limit disclosure of information about individuals to those within the University who need to know to perform their duties; and

9.2.5 disclose personal information in all other circumstances only as permitted under the Freedom of Information and Protection of Privacy Act.

9.3 The University may disclose personal information where appropriate, including where:

9.3.1 it is needed to prepare or obtain legal advice for the University;

9.3.2 it uses the information for the purpose for which it was obtained or compiled for a use consistent with that purpose (for example, where it is necessary to fulfill its duty of procedural fairness); or

9.3.3 an employee needs the information to perform their duties.

10.0 RETENTION AND DISPOSAL OF RECORDS

10.1 Information and records made and received to administer this policy are evidence of the University’s actions to respond to academic dishonesty, academic misconduct, or non-academic misconduct. Information and records must be retained and disposed of in accordance with a records retention schedule approved by the University Archivist.

10.2 The Registrar must destroy any record of a student’s alleged academic dishonesty, academic misconduct, or non-academic misconduct that may be held in the Office of the Registrar if the UBSD or SCODA determines that the discipline of the student was unwarranted.

11.0 POLICY REVIEW

11.1 This policy will be reviewed every five (5) years.

12.0 AUTHORITY

12.1 This policy is administered under the authority of the Vice-President, Academic and Provost.

13.0 INTERPRETATION

13.1 Questions of interpretation and application of this policy shall be referred to the Vice-President, Academic and Provost and the University’s General Counsel, who will jointly make a decision, which will be final.