



Policy	#3-30
Approved By:	Education Council
Approval Date:	March 26, 1997
Revision Date:	June 2002 June 10, 2011 October 16, 2015
Effective Date:	October 16, 2015
Date to be Reviewed:	October 2020
Administrator Responsible:	Vice President, Learning and Students

STUDENT APPEALS

POLICY STATEMENT

North Island College supports the need for students to have their appeals heard in a timely manner with a process that is transparent and unbiased and is in accordance with procedural fairness.

PURPOSE STATEMENT

The purpose of this policy is to provide a process for hearing student appeals.

PRINCIPLES

1. Students and employees are encouraged to resolve matters through dialogue and processes as described in the Student Complaint Policy #3-31.
2. Student appeals will be heard in accordance with the basic principles of procedural fairness.
3. Student appeals will be heard in a timely manner.
4. This policy relates to student concerns that the student believes have not been fairly considered or resolved within other college policies and processes, with the exception of those related to Human Rights Policy #2-08.

DEFINITIONS

Anonymity

Withholding of one's name.

Appellant

The student who has initiated the appeal and has the responsibility to gather and provide evidence that substantiates grounds for the complaint or appeal.

Appeal Advisor

The assistant director of student affairs, or designate, who facilitates the appeal process for all parties and conducts investigations as necessary. As a neutral liaison in the process, this person will ensure information is gathered and provided to involved parties as appropriate. This person will remain neutral and not attend appeal hearings

Appeal Panel

The group of college members who will hear the appeal and decide the outcome. The appeal panel will be selected by the office of the assistant vice-president of access & regions (or designate) from the appeal panel pool and normally consists of two students, two faculty members, one administrator and the assistant vice-president of access & regions (or designate). No member of the panel can be in a position of bias; faculty and students must be from programs other than that of the appellant. The appeal panel will normally be chaired by the assistant vice-president of access & regions or designate. In all cases the chair must be trained in adjudicative tribunal hearings.

Appeal Panel Pool

The appeal panel pool will be selected annually by the office of the director student services & registrar and normally consists of no fewer than six students, six faculty, and four administrators. At least four non-student members must be trained in adjudicative tribunal hearings. There will be no maximum length of term to belong to the appeal panel pool.

Students will be selected in consultation with the Student Union and will be in good standing, have completed at least 15 academic credit or equivalent hours at NIC and have a cumulative GPA of 2.0 or better.

Assistants

Persons recommended or requested by any involved party to assist during the hearing with matters such as language translation and sign language interpretation, cultural expectations and other related challenges which could impede a fair hearing. An assistant must be approved by the appeal hearing chair and does not participate in the discussion other than for purposes mentioned above.

College Community

Employees and students of NIC including contractors and others who have committed to an agreement with the College to provide services or become learners.

Confidentiality

Non-disclosure of particular information.

Good Standing

All students will be deemed to be in good standing unless their student account is in financial arrears and/or there is a current discipline related violation filed with the office of the director student services & registrar and/or the assistant director of student affairs.

Hearing

A formal and confidential meeting in which the appellant and respondent present their case to an appeal panel for a decision regarding matters initiated by the appellant.

Investigation

Review and fact-finding process conducted by the appeal advisor to ensure that the relevant information is provided as necessary throughout the process.

Principles of Natural Justice

- i. audi alteram partem “Listen to both sides”
Any person who is being accused of something has the right to know the accusation and must be given a reasonable opportunity to respond to the accusation, to offer rebuttals and to provide counter evidence.
- ii. nemo judex rule – no person shall be a judge in his or her own case, and every person has the right to an unbiased and independent decision maker.

Procedural Fairness

A term used alternatively with natural justice to describe process conditions that are fair, transparent and in compliance with the audi alteram partem and nemo judex rules.

Respondent

The person against whom the appeal is filed and is responsible for engaging in the process. In the case that the complaint is regarding a policy or department, the director student services & registrar will identify the respondent responsible for that area.

Student Advocate

A representative from the North Island Student Union who will provide assistance to students in addressing fairness issues, resolving disputes and assisting with appeals. If requested, the Student Advocate may attend an appeal hearing with the student.

Support Person

A person present at the appeal hearing upon the request of either party. This person will not participate or provide comment during the hearing.

Student

A person the director student services & registrar recognizes to be enrolled in or applying to be enrolled in a course or program of studies at the college.

Witness

Person invited by either party to attend the hearing as requested by the chair. Witnesses will be present only when providing evidence or responding to questions from the panel. Failure of a witness to appear will not impact the proceedings.

Guidelines

1. Appeal hearings will be used to address concerns not resolved through dialogue.
2. The appeal advisor will not participate in the appeal hearing and will assist with the process when and where needed as an unbiased guide to process.
3. When the student is unable to contact directly the involved party (for reasons of intimidation, health, scheduling, etc.), or vice-versa, the appeal advisor may facilitate discussions or will ensure the respondent is aware of the allegations. In some cases these discussions may occur independently.
4. Except in cases where the instructor and department chair determine there may be a risk to safety or other disruptions that may occur in the teaching and learning environment, a student will be expected to continue in courses, practica or other related educational activities pending the outcome of the appeal process.
5. Students will have assistants available as requested or as recommended by the appeal advisor and/or Access for Students with Disabilities (ASD) Faculty to assist with comprehending process and discussions. Assistants may include, but are not limited to sign language interpreters, cultural advisers and translators.
6. The appellant may withdraw the appeal request at any time prior to the hearing. In such cases, the matter will be deemed resolved and further appeals on the same case will not normally be accepted.
7. Both the appellant and the respondent must appear at the hearing. Appearance may be made in person, by video link or by telephone. Failure of a party to appear without notice will normally cause the decision to be made in favour of the attendee. In extenuating circumstances the hearing may be rescheduled at the chair's discretion.
8. The appeal process will be confidential for all parties; however, anonymity cannot be guaranteed. Information will be shared and protected in compliance with the Freedom of Information and Protection of Privacy Act (British Columbia).

Limitations

Legal counsel will not normally be permitted at the appeal hearing.

The College retains the right to refuse to hear an appeal that is malicious, vexatious or frivolous.

Student issues may be heard by the college independent of related matters being heard in a court of law.

Resources

The National Center for Higher Education Risk Management (NCHERM) Group, LLC

Systems-level solutions for safer schools and campuses. A Developmental Framework for a Code of Student Conduct. 2013

Legislative and Collective Agreement References

Freedom of Information and Protection of Privacy Act (British Columbia)

Cross References

Community Code of Personal and Professional Conduct Policy #3-06

Instructional Access for Students with Disabilities Policy #3-17

Human Rights Policy #2-08

Student Complaint Resolution Policy #3-31

Student Appeal Form

APPENDIX A Procedures

The appeal advisor will be involved to assist with the appeal process. To avoid perception of bias, it is essential that the appeal chair, normally the assistant vice president, access & regions, will not be advised of complaint matters that may proceed to a formal appeal. In the event there is a perception of bias, there will be a designate chair.

Stage 1: Filing an Appeal

1. To initiate an appeal the student will contact the appeal advisor who will provide the appeal form. The student will be expected to have the form completed normally within **ten (10) business days** of having received the concluding decision that is felt to be unfairly considered within the scope of relevant college policies.
2. After meeting with the appeal advisor, the student will have **ten (10) business days** to pay the \$25 fee and have the appeal form completed. The completed form with the supporting documents and fee payment receipt will be delivered to the appeal advisor. The appeal advisor will facilitate the completion and submission of documents as required.
3. The form and documents (the appeal package) will be forwarded by the appeal advisor to the office of the assistant vice-president of access and regions (or designate) within **two (2) business days** of having received it.

Stage 2: The Appeal Hearing

Preparation

1. The office of the assistant vice-president of access & regions (or designate) will convene the appeal panel normally within **five (5) business days** of receiving the completed appeal form and confirmation of payment. The assistant vice-president or designate will chair the appeal panel.
2. The chair will gather all relevant material into appeal packets and will provide copies of the packets to all participants one hour prior to the hearing. If the chair determines that one hour is insufficient time to review the documents, alternate arrangements will be made. In all cases, the packets will remain confidential and be the final submissions to the hearing.

Hearings will be confidential. Recordings and notes from the hearings will be maintained by the office of the assistant vice-president of access & regions.

Role and Duties of Participants

Appellant

The student filing the complaint.

Assistants

Persons recommended or requested by any involved party to assist during the hearing with matters such as language translation and sign language interpretation, cultural expectations and other related challenges which could impede a fair hearing. An assistant must be approved by the appeal hearing chair and does not participate in the discussion other than for purposes mentioned above.

Chair

The assistant vice-president, access & regions or designate.

Panel Members

Members of the appeal panel selected to participate in the hearing.

Respondent

The person responding to the complaint.

Student Advocate

A representative from the North Island Student Union who will provide assistance to students in addressing fairness issues, resolving disputes and assisting with appeals. If requested, the Student Advocate may attend an appeal hearing with the student as a support person.

Support Person

The support person is present throughout the hearing but does not participate in the discussion unless called to do so by the chair.

Witnesses

Both the appellant and the respondent may have witnesses participate. The names of these persons will be provided in advance of the hearing. They would attend only for a period of responding to questions and then would be dismissed.

Process

1. The chair will introduce all participants and provide a brief description of the purpose of the hearing, the procedures to be followed, and the confidentiality requirements. The appellant and the respondent may each have a student advocate or support person in attendance and may provide witnesses. The support persons and student advocate will not participate in the discussions.
2. The appellant will present the case and will respond to questions by the respondent and the appeal panel.
3. The appellant's witnesses (if available) will be invited to the hearing to make a statement (provide evidence) and respond to questions by the respondent and the panel.
4. The respondent will present the case and respond to questions by the appellant and the appeal panel.
5. The respondent's witnesses (if available) will be invited to the hearing to make a statement (provide evidence) and respond to questions by the appellant and the panel.
6. The chair, with discretion, may request, or allow, additional evidence pertaining to the case to be provided during the hearing, noting however that no matters outside of the current appeal will be addressed during the hearing.

Before concluding the hearing, the chair will ask the participants if they have had a chance to speak to information provided that it is pertinent information.

7. The respondent, appellant, and other participants will be dismissed from the hearing. The panel will remain to discuss and determine the decision.
8. The chair will write a letter describing the decision from the hearing; this letter will be provided to the appellant, respondent, dean/director and assistant director of student affairs within **two (2) business days** of the hearing.
9. In the event that the committee determines that the appeal is frivolous, spurious or motivated by malicious intent, the appellant and the respondent will be advised and the appeal will be dismissed and may not be reheard. In some instances, sanctions in accordance with the Code of Community Conduct may be administered.
10. Decisions of the appeal panel will be final unless the process has not complied with procedural fairness.

Challenging the Appeal Decision due to Lack of Procedural Fairness

1. To challenge an appeal decision, the appellant or respondent will submit a letter to the vice-president, learning and students outlining the complaint, the issues concerning procedural fairness, and the resolution requested.
2. The appeal challenge, by either the appellant or the respondent, will normally be initiated within **fourteen (14) business days** of when the appeal panel's decision is delivered to the appellant.
3. In the event that the vice-president, learning and students decides that procedural fairness has not occurred, the vice-president, learning and students will recommend either that the case be reheard by a new committee (de novo) or will decide the case based on the evidence provided initially to the chair of the appeal committee and through meeting with the complainant and the respondent.
4. The decision of the vice-president, learning and students will be final.

APPENDIX B Student Appeal Form

It will be expected that sincere and principled efforts have been made to resolve issues through dialogue (as per the Student Complaint Policy). However, if a resolution has not been reached, then the student appeal process will be followed.

Appellants and respondents will receive information about the appeal process from the appeal advisor. Student appeal forms are available from this advisor.

Timeline (days are business days)

Note: This is the *maximum* length of time for each stage of the process to normally occur; in cases of exceptional circumstances, extensions to this timeline may be approved by the appeal advisor.

Initiation of appeal process will begin by contacting the appeal advisor within **ten (10) business days** of having received the concluding decision that is felt to be unfairly considered within the scope of relevant college policies.

Student Appeal Form will be processed through to the dean level (or appropriate director) and submitted, along with supporting documents to the complaint advisor within **ten (10) business days** of the request to proceed to the formal process. The form and documents (the appeal package) will then be forwarded by the appeal advisor to the office of the assistant vice-president of access and regions (or designate) with **two (2) business days** of receipt.

The office of the assistant vice-president of access and regions will convene an **appeal panel** within **five (5) business days** of receiving the request.

The **hearing** will occur within **five (5) business days** of convening the appeal panel. Participants will be expected to be flexible in availability to ensure the hearing occurs within this time period.

Participants will be advised of the **decision** of the appeal panel within **two (2) business days** of the hearing and decision.

The Student Appeal Form – Instructions for Completion

Purpose of Form

The purpose of the form is to ensure that the issue(s) and proposed resolution have been clearly articulated and discussed; it will be possible to have a resolution occur during this stage and prior to an appeal hearing.

1. The student will bring the form and relevant documents for discussion to each of the persons named on the form. If the student is unable to circulate the form (intimidation, health, scheduling, etc.) the appeal advisor may circulate it. The appeal advisor will act only as a process facilitator and not advocate for any party or participate in the hearing.
2. If a resolution does not occur, the student will pay the appeal fee to student services and take proof of payment along with this form and relevant documents to the appeal advisor to initiate the hearing process.
3. Upon receipt of the appeal form, relevant documents and proof of payment, the office of the assistant vice-president access and regions will contact participants to complete arrangements for an appeal hearing, including the gathering of contact information of support persons and witnesses.

Refund of Appeal Fee

The fee will be refunded if the student's appeal is upheld, or if the respondent does not attend the hearing without notice or cause.

Appeal Form
(Please attach relevant documents)

STEP 1 – This form is to be completed by the student and returned to the appeal advisor within ten (10) business days of its issue (please use and attach extra paper as required).

Date of Issue of Appeal Form: _____

Student Name: _____ Student Number: _____

Current Mailing Address: _____

Phone Number: _____

Email: _____

Preferred method of communication: _____

Please describe, in detail, the issue/decision you are appealing and the resolution you are proposing, including:

Course name (if applicable): _____

Assignment/Exam name or number (if applicable): _____

Instructor Name (if applicable): _____

Policy Number (if applicable): _____

Name and position of decision-maker if not an instructor: _____

Date of the decision/issue being appealed: _____

Issue/decision

Proposed Resolution

Student signature: _____ Date: _____

Appeal Advisor: _____ Date: _____

Step 2 - to be completed by the instructor, or other respondent as applicable

Name: _____ Position: _____

Comments (please use and attach extra paper as required):

Student Signature _____ Date _____

Respondent Signature _____ Date _____

If a resolution that is suitable to the student has not been reached, the student will proceed to Step 3.

Step 3 - to be completed by the department chair/ department head if a resolution has not been reached.

Name: _____ Position: _____

Comments (please use and attach extra paper as required):

Student Signature: _____ Date: _____

Chair/Dept. Head Signature: _____ Date: _____

If a resolution that is suitable to the student has not been reached, the student will proceed to Step 4.

Step 4 - To be completed by the dean or director

Name: _____ Position: _____

Comments (please use and attach extra paper as required):

Student signature: _____ Date: _____

Dean /Director signature: _____ Date: _____

If a resolution that is suitable to the student has not been reached, the student must return this form and supporting documents along with a *proof of payment* of the appeal fee to the appeal advisor to initiate the hearing process. The appeal advisor will forward the package to the assistant vice-president of access and regions within **two (2) business days** of receipt.

Appeal Advisor signature: _____ Date: _____

Date delivered to the assistant vice-president of access and regions: _____

For completion by the assistant vice-president of access and regions:

Please note that due to the complexities of scheduling hearings, it may not be possible to consider the availability of support persons and witnesses. One support person, and unlimited witnesses may be invited to the hearing.

Hearing Date: _____

APPELLANT

Support Person signature _____ **Date** _____

Witness signature _____ **Date** _____

Witness signature _____ **Date** _____

RESPONDENT

Support Person signature _____ **Date** _____

Witness signature _____ **Date** _____

Witness signature _____ **Date** _____