**NA Form 1.3**



**Procedures for Addressing Student Non-Academic Misconduct**

**FORM FOR STUDENT**

**Request for Appeal of Decision of Executive Director, Office of Student Rights and Responsibilities (or designate)**

*[to be submitted within 14 calendar days of having received the decision of the Executive Director, Office of Student Rights and Responsibilities (or designate).]*

Name of individual requesting an appeal: Click here to enter text.

Student ID number (where appropriate): Click here to enter text.

Decision of Executive Director, Office of Student Rights and Responsibilities (or designate) – Finding:

Click here to enter text.

Decision of Executive Director, Office of Student Rights and Responsibilities (or designate) – Sanction:

Click here to enter text.

**1. Requests for appeals must be based on one or more of the following grounds:**

*(select all that apply)*

There was serious procedural error in the processing of the complaint which was prejudicial to the appellant.

There is new evidence, not available at the time of the earlier decision, which casts doubt on the correctness of the decision.

The Executive Director, Office of Student Rights and Responsibilities (or designate)’s decision is clearly unreasonable or unsupportable on the evidence.

**2. Provide a rationale in support for one or more of the grounds for appeal (selected above) and append all relevant documentation, including the Decision of the Executive Director, Office of Student Rights and Responsibilities (or designate:**

**3. Acknowledgement and Signature**

|  |
| --- |
| In signing this form, I understand that staff in the University Secretariat will be contacting me to coordinate the process. I understand that I have the right to have an advisor or legal counsel assist me throughout this process. I understand that an advisor could be a family member or friend and that legal counsel would be a lawyer hired through a law firm or a lawyer obtained, at no cost, through Community Legal Aid (CLA) (519-253-7150; [cla@uwindsor.ca](applewebdata://F8D9FDC7-96A2-49CF-9EA7-F8526CFB853E/%22javascript:_e()). It is my responsibility to inform the Secretariat if I am being assisted by an advisor or have retained legal counsel. If I choose to be assisted by an advisor/lawyer, I understand that information regarding my case file will be forwarded to my advisor/lawyer. |

Name of individual requesting the appeal (typed or signed) – Please ensure it is legible: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[All communications (including signatures, notices, memos, invitations, decisions, etc.)* ***may be electronic, sent via the user’s UWindsor email.****]*

Date: Click here to enter a date.

**4. Complete This Section If You Are Being Assisted by an Advisor or Lawyer**

Name of Advisor or Legal Counsel (typed or signed) – Please ensure it is legible:

If assisted by an Advisor, Relationship of Advisor to the Student: Click here to enter text.

Name of Law Firm/Organization: Click here to enter text.

Email of Law Firm/Organization: Click here to enter text.

Address of Law Firm/Organization: Click here to enter text.

Telephone number of Law Firm/Organization: Click here to enter text.

***If you do not have an advisor or lawyer at this time, please submit the form without this section completed. If or when you have retained an advisory/lawyer, inform the University Secretariat immediately.***

***\*\*This Form is to be submitted to the University Secretariat:*** [**danny.anger@uwindsor.ca**](mailto:danny.anger@uwindsor.ca)***, 2nd Foor, Assumption Hall.*\*\***

**APPENDIX**

**Procedures for Addressing Student Non-Academic Misconduct - Excerpt**

**Appeal Provisions**

**5.2 Step 2 – Appeal**

5.2.1 A Student or Complainant may request an appeal of a Decision of the Executive Director of the Office of Student Rights and Responsibilities (or designate). The Student or Complainant shall submit the request for appeal within 14 calendar days of having received the Decision of the Executive Director of the Office of Student Rights and Responsibilities (or designate) to the University Secretariat. The Decision shall be deemed to have been received by the Student and Complainant three calendar days after it has been sent by the Executive Director of the Office of Student Rights and Responsibilities (or designate) to the Student’s and the Complainant’s UWin email address. The Adjudicator (or designate) has the power to extend this deadline when the interests of justice warrant or where no substantial prejudice would result.

Requests for appeals must be based on one or more of the following grounds:

1. There was serious procedural error in the processing of the complaint which was prejudicial to the appellant.
2. There is new evidence, not available at the time of the earlier decision, which casts doubt on the correctness of the decision.
3. The Executive Director of the Office of Student Rights and Responsibilities’ (or designate’s) decision is clearly unreasonable or unsupportable on the evidence.

5.2.2  An appeal to the Adjudicator (or designate) shall operate as a pause or stay on the Decision of the Executive Director of the Office of Student Rights and Responsibilities (or designate), unless otherwise decided by the Adjudicator (or designate), with the exception of suspension or exclusion from campus orders under section 9, and expulsion orders. In the case of suspension or exclusion from campus orders initiated under section 9, and expulsion orders, an appeal to the Adjudicator (or designate) shall not pause or stay the implementation of the Decision of the Executive Director of the Office of Student Rights and Responsibilities (or designate), unless otherwise decided by the Adjudicator (or designate).

5.2.3 The Adjudicator (or designate)’s decision on whether to grant the request to appeal shall be issued no later than 14 calendar days after the Adjudicator (or designate) received the appeal request, and is final and binding. Where the Adjudicator (or designate) grants the request, the appeal normally shall be completed and a Decision rendered by the Adjudicator (or designate) within 60 calendar days of receiving the last appeal submissions or within 60 calendar days of an oral hearing. The Adjudicator (or designate) has the power to extend deadlines when the interests of justice warrant or where no substantial prejudice would result.

**6 Appeal Procedures**

6.1 Appeals may proceed by written submissions or oral hearing at the discretion of the Adjudicator (or designate), with the exception that in cases of alleged sexual misconduct, appeals normally will be heard by written submission, with oral hearings proceeding only in exceptional circumstances as determined by the Adjudicator (or designate). In cases of oral hearings, proceedings shall be arranged so that the Complainant and the Student do not meet face-to-face unless all parties (namely, the Student, the Complainant, and the Executive Director of the Office of Student Rights and Responsibilities (or a designate)) agree to do so. Appeal proceedings shall observe the principles of fairness and natural justice.

6.2 The Student, the Complainant, and the Executive Director of the Office of Student Rights and Responsibilities (or a designate) shall:

* have the right to Legal Counsel or an Advisor. The Student and the Complainant shall bear the costs for their legal counsel or Advisor.
* have the right to respond to arguments presented by the other party(ies).
* present to the Adjudicator (or designate) all evidence relevant to the matter under appeal, including the original Decision, and any other relevant documents or information.

6.3 The Appellant’s appeal submission under 5.2.1 shall be submitted to the other Party(ies) who shall be provided with 14 calendar days to respond in writing. The Appellant will then be provided with 10 calendar days to reply to the responses from the other Party(ies). Any subsequent written submissions and their timelines for submission shall be at the discretion of the Adjudicator (or designate).

6.4 Order of Proceedings:

1. The Appellant’s request for appeal which sets out in reasonable detail the grounds for appeal, and includes the Decision of the Executive Director of the Office of Student Rights and Responsibilities (or designate), and any other relevant documents or information previously submitted to the Adjudicator (or designate) will be submitted to the other Party(ies).
2. The other Party(ies) response to the Appellant’s arguments, including any other relevant documents or information, will be submitted to the Appellant and Adjudicator (or designate).
3. The Appellant’s reply to the other Party(ies) response will be submitted to the Adjudicator (or designate) and the other Party(ies).
4. Where there is new evidence or information provided in the submissions, the Parties shall be given the opportunity to respond. Responses shall be submitted to the other Party(ies) and the Adjudicator (or designate).
5. The Adjudicator (or designate) may limit the number of submissions where further evidence shall be repetitive or irrelevant.
6. The Adjudicator (or designate) may ask any questions and seek clarification of the investigator, the Parties, witnesses, Subject Matter Expert, or any other individual Adjudicator (or designate) deems appropriate. The Adjudicator (or designate) shall make a record of any new evidence presented. The Parties shall be given the opportunity to respond to, or question any new evidence arising from information sought by the Adjudicator (or designate). Any responses shall be submitted to both the Adjudicator (or designate) and the other Party(ies).

6.5 In the case of oral appeal hearings*,*the Parties will be notified at least 14 calendar days before the hearing, of the date, time, and place of the hearing. This notice period may be waived by the Parties in writing.

6.6 If a Party, who has been notified of an appeal, is unresponsive or is absent without contacting the Adjudicator (or designate) with a satisfactory explanation, the appeal may proceed in the Party’s absence.

6.7 No disciplinary penalties shall be imposed based solely upon the failure of the Student to respond to the complaint, or participate in the appeal, or testify. In any such case, the evidence in support of the appeal shall be presented and considered.

6.8 The Parties will disclose to each other the names of witnesses they may call to give evidence; however, the Executive Director of the Office of Student Rights and Responsibilities (or designate) may decline to disclose the names of one or more witnesses if the Executive Director of the Office of Student Rights and Responsibilities (or designate) determines, in their discretion, that disclosure of the name(s) in advance may pose a risk to the safety of any witness. The Adjudicator (or designate) may order the disclosure of name(s), where the Adjudicator deems it appropriate.

6.9 The Adjudicator (or designate) will have control over their own procedures and may set additional procedures as necessary provided they are not inconsistent with these procedures and provided they are in accordance with the principles of fairness and natural justice. The Adjudicator (or designate) will have the power to waive or modify deadlines when the interests of justice warrant or where no substantial prejudice would result.

6.10 The Adjudicator (or designate) may consult with a Subject Matter Expert, who will receive and review information, which shall be free from any identifying information, for the sole purpose of providing professional advice to the Adjudicator (or designate). Any professional advice provided to the Adjudicator (or designate) by the Subject Matter Expert shall be reported to the Parties who shall be given the opportunity to respond. No identifying information will be submitted to the Subject Matter Expert without the prior consent of the Parties. The Subject Matter Expert may attend an oral hearing with the consent of the Parties.

6.11 The Adjudicator (or designate) is not bound by the rules of evidence applicable to judicial proceedings but will be guided by the principles of fairness and natural justice, and will adhere to the rules of privilege and privacy.

6.12 Hearings will be closed. At the discretion of the Adjudicator (or designate), others may be permitted to attend the proceedings for training purposes, or other reasonable considerations. The obligation to maintain the confidentiality of the proceedings will be extended to them.

6.13 The standard of proof will be on a balance of probabilities.

6.14 The Parties will bear their own costs of the proceedings, including the costs associated with retaining legal counsel or an advisor, producing written submissions and/or witnesses, and requesting additional copies of materials already provided. No orders as to costs will be made.

6.15The Adjudicator (or designate) will inform the Parties in writing of the Decision, normally within 60 calendar days of receiving the last submissions or within 60 calendar days of an oral hearing. The Adjudicator (or designate) has the power to extend these deadlines when the interests of justice warrant or where no substantial prejudice would result. Decisions of the Adjudicator (or designate) shall be final and binding, with the exception of Decisions of the Adjudicator (or designate) to confirm or revoke interim suspension orders and/or exclusion from campus orders under section 9, and expulsions, which require the approval of the President to be final and binding.

6.16 Decisions shall be confidential, unless otherwise stated by the Adjudicator (or designate). When determining whether a Decision ought not to be confidential, the Adjudicator (or designate) must ensure that, upon redaction, the Student and Complainant remain unidentifiable. Where this cannot be assured, the Decision shall remain confidential. (see paragraph 2)