
Decision Review Boards

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Objectives

This procedure applies directly to Policy 5104, Academic Integrity and Appeals. This document describes the processes for:

- Students, in requesting a decision review board hearing
- Deans, in appointing a decision review board and arranging the hearing
- Decision Review Board chairs, in conducting a DRB hearing

Such hearings examine grades-related decisions and decisions regarding academic misconduct. Procedure 5104-PR3, Institutional Appeal Tribunals, provides the processes for the highest level of review.

BCIT believes that students have a right to have their concerns dealt with expeditiously and without undue delay. The timelines provided in this procedure are designed to meet this goal.

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Application

This procedure applies to BCIT students, instructors, and employees.

Other Information

Other Procedures associated with Policy 5104:
5104-PR1 – Academic Decision Review Process
5104-PR3 – Institutional Appeal Tribunal
5100-PR1 – Student Reports/Student Performance Contracts

Introduction

Students who disagree with a formal grade reassessment, or decisions regarding academic misconduct, may ask for a review of the decision by a decision review board (DRB). The DRB provides an unbiased second look at a decision and it will review the evidence and procedures used. In the interest of fairness, members selected for the board will have no prior knowledge of the case being considered.

The student files an application for a DRB hearing with the office of the dean of the school in which the student is enrolled, within 30 business days from the date of the decision being appealed.

The Student Judicial Affairs office arranges for a DRB hearing to take place.

The Decision Review Board's Mandate

The DRB is a committee established to hear a specific appeal. It adjudicates the evidence presented by the student appellant and by the representative of the program or department that made the decision being appealed. The composition of the DRB is described in this procedure's appendices.

How the DRB operates

Students must recognize that a DRB is an administrative body, not a legal body; its procedures are based on the principles of natural justice (procedural fairness). No legal representative(s) will be permitted at hearings. The intention is not to limit access to legal counsel, but to provide the board an opportunity to review decisions without external pressures or interference.

The board may weigh evidence consisting of testimony by the appellant or by the program representative, tangible evidence such as exams, assignments or projects, and the testimony of witnesses called by either party.

Among other things, in their deliberations, the Chair of the DRB will ensure that it:

- Follows the tenets of natural justice
- Follows the procedures as outlined in this policy as well as any school-specific procedures
- Considers only the relevant evidence
- Weighs the consequences to the student
- Considers whether the consequences are reasonable and consistent with other decisions made in the school
- Considers any mitigating circumstances

The Chair will remind the hearing that the academic issue at hand concerns a decision made by the school, not by an individual instructor.

The hearing will not be a forum to review the professional competence of any individual instructor.

DRB decisions and reports

Decisions made by the DRB should, preferably, be consensus-based rather than the result of a vote.

In all cases, the DRB must produce a report which documents its findings.

The DRB report should be viewed as an award, (or judicial decision), and should provide the appellant with a concise and complete statement of reasons for the decision.

DRB hearings are intended to improve the operation of the Institute; thus, BCIT encourages the DRB to identify operational issues and to bring them forward to the appropriate manager, under separate cover from the DRB decision.

Notes for the Student Appellant

Limitations to the appeal – Once the student has established the grounds for an appeal, the student cannot change these grounds at this or any hearing into the matter, and the DRB will hear only evidence pertaining to those specified grounds at the hearing. Students should be careful to state clearly the basis for the appeal, the evidence to support their argument, and the desired outcome.

Get assistance – Students are encouraged to obtain assistance from the Student Association Advocacy Office in completing the application. Students may also seek assistance from Counselling and Student Development to obtain information, feedback and support. However, counsellors do not act as student advocates.

Procedure Part 1 – Preparing for a DRB Hearing

Timeline of events

The DRB process and decision will be undertaken expeditiously, guided by this timeline, while also protecting the integrity of the DRB Hearing.

Initiating the process

The Student Appellant:

- The student (hereinafter called “appellant”) files an application for a DRB hearing, together with a proof of payment of the applicable fee, and all supporting documents to be used as evidence, with the dean’s office in the school in which the appellant is enrolled.
 - In the case where a course under dispute is delivered by another school, the material is passed to the appropriate dean who will arrange for a DRB hearing.
- Copies of the appropriate form may be found next to this procedure on the BCIT web site: <http://www.bcit.ca/about/administration/policies.shtml>. Fees are indicated in the Schedule of Miscellaneous Fees at <http://www.bcit.ca/admission/fees/>.
- The appellant has 30 business days from the date of the decision being appealed in which to file the DRB request. The date on which the program dean’s office receives the appeal documentation will be the commencement date of the entire DRB process.

The Dean:

- Informs the registrar of the pending hearing so that if there is any change in student status, either temporary or permanent, it may be noted
- Informs the department involved by sending a copy of all the material provided by the appellant in his/her application
- Acknowledges receipt of the request to the appellant
- The dean of the school in which the appellant is enrolled:
 - Will normally permit the appellant to continue in any course or program which requires prior completion of the course under review, pending outcome of the appeal

- Will not permit the appellant to continue in the course or program if the dean believes that the safety of the appellant or of others might be compromised, or if the presence of the appellant would likely disrupt the learning environment
- Will advise the appellant in writing of this decision
- Will pass the application and all materials to the Student Judicial Affairs office.

The Student Judicial Affairs Office:

The Student Judicial Affairs office provides administrative support to the hearing. This support includes preparation of a binder containing all submissions, including:

- Records of events, or other documents filed by the appellant and by the relevant program area
- The application form submitted by the appellant requesting a DRB hearing
- Any correspondence on the matter between the program and the dean's office, and the appellant and the dean's office
- Any issues on which the Chair of the DRB will subsequently adjudicate

After the Student Judicial Affairs office receives the application

Within seven business days:

The Student Judicial Affairs office provides the appellant with a list of five candidates for the DRB panel, giving their names and positions at BCIT. The office also provides the names and positions of four possible alternative panel members. At this time, the Student Judicial Affairs office chooses the DRB Chair from the proposed membership list.

The appellant may challenge the membership of any person on the DRB, advising the Student Judicial Affairs office within five business days of notification of the membership.

- The challenge must be supported by substantive reasons arguing bias on the part of the member(s) challenged.
- The appellant must name a replacement(s), selected from the list of alternatives.
- If the chair of the panel determines that a reasonable person could discern bias on the part of the challenged member(s), the Student Judicial Affairs office will replace the member(s).

Within 15 business days:

- The Student Judicial Affairs office will advise the appellant of the final membership of the DRB.
- The program representative will provide the Student Judicial Affairs office with a list of its proposed witnesses, the topics the witnesses will address, and the time they will require. The program representative will also provide the documentation it intends to use in the DRB Hearing.
- The program representative will provide the Student Judicial Affairs office with the information requested by the appellant in the appellant's application. The Student Judicial Affairs office will decide whether or not the information is confidential.
 - If the information is not confidential, the Student Judicial Affairs office will provide the information to the appellant.
 - If the information is confidential, the Student Judicial Affairs office will confirm the confidentiality, notifying both the appellant and the DRB Chair.

- The DRB Chair will adjudicate other reasons given by the department for withholding the information, and decide whether the requested documentation should be provided.

Within 25 business days:

The Student Judicial Affairs office will prepare a binder containing all the documentation provided by both the appellant and the department, including:

- All records of evidence to be presented by either party
- A list of all witnesses the department and the appellant intend to call
- The application form provided by the appellant
- Any records of decisions with respect to documents requested by the appellant and denied

This binder containing the original documents will be provided to the DRB Chair, and copies will be provided to each other member of the DRB, the appellant, and to the department. At this time, if the binder contains information of a confidential nature, all recipients will be required to sign an agreement of confidentiality.

Within 39 business days:

A DRB Hearing will commence.

At least five business days prior to the scheduled hearing:

The DRB Chair will confer with both the appellant and the program representative to ensure that both are familiar with the hearing procedure, to explore any opportunities for a negotiated settlement, to establish timelines for the various parts of the hearing and to address any of their questions. The merits of the case are NOT to be discussed at this time.

Procedure Part 2 – Conducting the Hearing

The DRB Chair should convene a brief (30-minute) meeting of the members just prior to the beginning of the hearing. In the meeting the panel members would be introduced to each other, and informed of the procedure to be followed.

Order of formal proceedings

1. Opening remarks (Chair)
2. Clarification of grounds of Appeal and objective sought by the appellant(s) (Chair)
3. Review of time limits and format of hearing (Chair)
4. Introduction of the hearing participants and clarification of each participant's role (Chair)
5. The appellant's oral statement (s) followed by questions to the appellant(s) in the following order, as directed by the chair:
 1. From panel members
 2. From the program representative(s)
 3. Any additional questions from the panel members
6. Presentation and statements by each witness called by appellant, and subsequent questioning of each witness, in the following order, as directed by the Chair:
 1. By the appellant(s)
 2. By panel members
 3. By the program representative(s)
 4. Any additional questions from panel members, from the appellant(s) and/or from the program representative(s)

7. The Program spokesperson's statement, followed by questions to him/her in the following order, as directed by the Chair:
 1. By the panel members
 2. By the appellant(s)
 3. Any additional questions from panel members
8. Presentation and statements by each witness called by the program representative, and subsequent questioning of witnesses identified by the program, in the following order, as directed by the Chair:
 1. By the program representative(s)
 2. By panel members
 3. By the appellant(s)
 4. Any additional questions by panel members, by the program representative(s), and/or by the appellant(s)
9. Concise summary statements from the appellant(s) and the program representative(s).
10. Final questions by the panel members directed to the program representative(s) and/or to the appellant for clarification of points and/or for additional information.
11. Summary Statement (Chair)
12. All binders of information provided to the appellant and the program representative should be returned to the Chair of the DRB at this time.
13. Hearing adjourned (Chair)
14. The DRB re-convenes following the adjournment, to decide on the award.
15. Once the decision has been reached regarding the award, the Chair retrieves the binders from each of the panel members.
16. The DRB produces a report which documents its findings. If the DRB's decision varies from the original decision, the reasons for the variance must be clearly outlined in the written decision.
17. Following completion of the hearing and submission of the award to the dean, the DRB Chair should amalgamate all meeting notes made by the panel members, evidence, and backup materials, eliminating redundant material, and forward them to the registrar for retention, as required by BCIT's Directory of Records.

Procedure Part 3 – After the DRB Hearing

1. Within seven business days, the DRB Chair notifies the Student Judicial Affairs office, the dean and the Registrar of the DRB's decision and submits the award.
2. All records of the hearing are conveyed to the Registrar's Office, which will retain them as required by BCIT's Directory of Records.
3. When adjustments to the appellant's academic record are required, the Registrar:
 - Changes the appellant's record of academic standing
 - Advises the appropriate deans, associate deans, program heads, etc., that the change has been made to the records
4. The dean's office advises the appellant of the hearing outcome, and provides the appellant with a copy of the award.
5. The dean arranges for a refund the DRB hearing application fee when the decision is found in favour of the appellant.

Appendix 1: The DRB's Composition

The DRB consists of a five-member panel: a non-voting chair; two instructors, at minimum; and one or more students. At least one member of the panel, in addition to the chair, will be formally trained in the principles of natural justice.

Any likelihood of bias on the part of any member of the DRB should be avoided. Thus, no member is to have any prior knowledge of any details of the case. Should there be any question in this regard, the Chair will be required to adjudicate.

Nevertheless, members of the DRB should understand the general propositions or principles at issue.

These requirements are to ensure fair treatment to all parties by an unbiased board, which understands the general context of the matter under consideration.

In selecting the persons to sit on a DRB, the Student Judicial Affairs office should be mindful of the right of the appellant to challenge the selection of any member of the board.

The chair of the DRB must have up-to-date knowledge and understanding of:

- The tenets of natural justice
- The manner in which an administrative tribunal operates
- Effective decision writing skills

A list of trained individuals to chair the DRB hearings is maintained by the Standing Committee on Appeal of Academic Standing of the Education Council.

Appendix 2: DRB Protocol

Venue

1. The hearing room and furnishings should:
 - Comfortably accommodate all those to be present throughout the hearing
 - Provide for separation of the appellant and program representatives and witnesses while they are waiting to appear
2. Simple refreshments should be provided for all participants.
3. If the appellant is unable to attend the hearing in person (with good reason as adjudicated by the Chair of the DRB), the dean's office will arrange for participation through video-conferencing. In this case a proctor must verify the appellant's identity, and supervise the proceedings at the distant site to ensure compliance with BCIT policy. Technical support should be readily available at both the near and far sites, as should a backup system (e.g., a speaker phone).

Recording the proceedings

4. Hearings are to be conducted in-camera. The electronic recording devices permitted will be audio recording devices provided by the Institute. The result of this recording will become the official transcript of the hearing. If the hearing is conducted via video-conference, or by speaker phone, this requirement may require additional diligence.
5. Manual transcription of all dialogue or the use of a computer for note taking purposes is permitted.

Time frames

6. Hearings should be conducted during normal school business hours (e.g., 8:30 AM – 4:30 PM), with appropriate breaks. If more time is needed, then the hearing may continue beyond these hours if everyone involved agrees (panel members, appellant(s), program representative(s), witnesses), or on the next business day.

7. Time frames for witnesses to give evidence should be established.
 - Off-campus witnesses should be given priority and not be made to wait unnecessarily.
 - On-campus witnesses could be paged, called at their office, or otherwise contacted, immediately prior to the time for them to appear.

No Proxy

8. In most cases, the student will self represent. However, the student may choose to be represented by one of the following individuals: the Student Association Advocate, or the Student Association Vice-President Student Affairs, or the student's Set Rep .

Observers and supporters

9. Observers will be allowed only with unanimous permission of the DRB Chair, the program representative, and the appellant.
10. Observers may not participate in the hearing, and may not remain in the room during any discussions by members of the panel.
11. The appellant may be accompanied to the hearing by a supporter of their choice. The supporter will not address the DRB nor otherwise participate in the hearing unless requested to do so by the Chair.

Witnesses

12. Witnesses will be brought into the hearing room only for their testimony, and are to leave immediately after. They should be cautioned not to discuss what was said in the room.
13. Witnesses should have the option to make a statement in addition to answering questions.
14. Witnesses should speak to matters of fact and to matters of which they have first-hand knowledge.
15. All witnesses will be accorded the same treatment.

Permitted evidence

16. All evidence (except witness testimony) to be entered during the hearing must be provided to all parties prior to the hearing.

Forms Associated With This Procedure

5104-F1 Application for a Decision Review Board Hearing

Amendment History

1. Created 2009 JAN 21
2. Amended 2010 MAY 25