

## Appeals Process

The following appeal regulations, passed by Faculty Council in October 1980 and amended March 1987, March, 2001 and May, 2006, are now in effect.

The Studies Committee, chaired by the Associate Dean Academic, is delegated by Faculty Council to perform an oversight role in administering the Appeal Regulations. In these regulations, reference to the Associate Dean Academic may include a person who, in the particular circumstances, has been designated by the Associate Dean Academic to act in his or her stead.

Note: There are several procedures in place at Dalhousie Law School to ensure fairness in evaluation and consistency in grading. All exam questions are vetted by a faculty member teaching in the same area. Selected exams (including all failures) are co-read after marking is complete, but before the marks are submitted. **Because of these checks, the Appeal Regulations do not provide for appeals which amount merely to seeking a second opinion.** Students bear the burden of establishing the elements of an appeal. **No appeal can be based upon the fact that a grade was lowered by Faculty Council in order to comply with the Grade Distribution rules.**

### A. Informal Review

A student who believes there is an error in a grade received in a class or in a component of a class should discuss the grade informally with the faculty member responsible.

A faculty member who, as a result of the informal review, acknowledges that an error in grading exists must, within five (5) working days of the informal review, inform the Studies Committee in writing of the nature of the error, and should indicate how the error should be rectified.

Upon receipt of such notification from a faculty member, the Studies Committee shall review the written explanation and shall decide whether amending the grade is appropriate in the circumstances.

### B. Formal Request for An Appeal

#### General (Applicable to All Formal Appeals)

1. Any student who is considering launching a formal appeal is strongly encouraged first
  - (a) to go through the informal review outlined above; and
  - (a) to speak with the Associate Dean Academic or the Assistant Dean, Academic, to ensure that the student has a clear understanding of the substantive and procedural requirements for a formal appeal.
2. There are two types of formal appeal available under these regulations:

- (a) Appeals based on a demonstrable error in grading (“Part I appeals”); and
  - (b) Appeals relating to unfairness, impropriety or incompetence (“Part II appeals”).
3. Any formal Request for an Appeal shall be made by letter to the Associate Dean Academic
    - (a) in the case of a final grade received in a winter term course or on a supplemental or special exam written during the summer by a student who is returning to Dalhousie Law School the following September, not later than fifteen (15) working days following the first day of classes that September; or
    - (b) in all other cases, not later than fifteen (15) working days after the final grade is made available through the University online distribution system;
  4. The written Request for Appeal shall be accompanied by a cheque in the amount of \$50.00 (refundable if the appeal succeeds). The Studies Committee may waive the \$50.00 fee where it can be demonstrated that the payment would cause exceptional financial hardship.
  5. Where
    - (a) the Appeal Regulations stipulate a time period for a student, faculty member, or Appeal Board to take any action, and
    - (b) in the opinion of the Associate Dean Academic, circumstances exist that would justify an extension of that time period and the extension could be granted without imposing an undue burden on other parties,
 the Associate Dean Academic may, upon written request, grant an extension.

#### Part I Appeal: Demonstrable Error in Grading

1. A student, having received the **final** grade in a class, may request a formal appeal of the grade given in any written component of the class, including the result of a special or supplemental examination, on the basis that an error has been made in grading.
2. **An error in grading must be a demonstrable error, as opposed to a general sense that the exam or assignment deserved a higher grade.** Example: Where a student can demonstrate *prima facie* that his/her answer accorded with the faculty member’s marking guide but the faculty member gave insufficient credit for it, an error in grading may be alleged.
3. (1) A Request for an Appeal under this Part shall contain the following information:
  - (a) The student’s name and exam code number;
  - (b) The name of the course and of the faculty member(s) who taught and/or evaluated it;
  - (c) A reasonable explanation of the nature of the error in grading which the student believes affected the mark received; and

(d) A copy of the assignment or exam questions.

(2) Where the appeal involves exam booklets or a paper or assignment not already in the possession of the office of the Associate Dean Academic, the student shall ensure that the Request for an Appeal is accompanied by the exam booklets, paper or assignment originally submitted by the student.

4. Upon receipt of a Request for an Appeal under this Part, the Studies Committee shall
  - (a) where the Studies Committee is of the opinion that the student has not, *prima facie*, demonstrated an error in grading in accordance with section 2, notify the student that the appeal has been terminated; or
  - (b) where the Studies Committee is of the opinion that the student has, *prima facie*, demonstrated an error in grading in accordance with section 2, permit the appeal to proceed.
  
5. Where the Studies Committee permits an appeal to proceed further, the Associate Dean Academic shall
  - (a) notify the student involved; and
  - (b) forward to the faculty member who assigned the grade in question the student's Request for an Appeal.
  
6. (1) Within ten (10) working days of receiving the Request for an Appeal under paragraph 5(b), the faculty member shall
  - (a) advise the Associate Dean Academic whether he or she agrees that an error in grading occurred and shall recommend to the Studies Committee that
    - (i) the grade or mark remain unchanged,
    - (ii) the grade or mark be lowered, and by how much, or
    - (iii) the grade or mark be increased and by how much;
  - (b) give the reasons for his or her recommendation; and
  - (c) indicate the mode of grading used for the exam, assignment or paper in question.

(2) Where in the opinion of the Associate Dean Academic it is impossible or impractical to obtain the recommendation of the faculty member referred to in subsection (1) within a time frame that would not prejudice the student, the Studies Committee may forward the appeal directly to an Appeal Board constituted in accordance with section 8.
  
7. (1) The Studies Committee shall review the recommendation received from the faculty member under Section 6 and where the faculty member recommends raising the grade in the same amount requested by the student in his or her Request for an Appeal, the Studies Committee may
  - (a) make the recommended change in the grade, or
  - (b) forward the matter to an Appeal Board constituted in accordance with section 8.

(2) Where the Studies Committee does not change the grade or forward the matter in accordance with subsection (1), the Studies Committee shall forward the faculty member's recommendation to the student making the appeal. Within five (5) working days of receiving the faculty member's recommendation, the student shall notify the Associate Dean Academic in writing as to whether or not he or she intends to continue with the appeal.

8. Where in accordance with subsection 7(2) the student notifies the Associate Dean Academic of his or her intention to continue with the appeal, the Associate Dean Academic shall appoint two faculty members, preferably with expertise in the subject, as an Appeal Board, to review the grade assigned and to determine whether an error has been made in evaluating the student's work.
9. The Associate Dean shall provide the Appeal Board with the following:
  - (a) the student's Request for Appeal;
  - (b) the recommendation of the faculty member provided under section 6;
  - (c) the exam booklets, paper or assignment being appealed; and
  - (d) copies of exams, assignments or papers from the same class that
    - (i) received a grade five (5) or more marks higher than that obtained by the student making the appeal,
    - (ii) received a grade five (5) or more marks lower than that obtained by the student making the appeal, and
    - (iii) received the highest grade in the class.

Note

- Where the exam or assignment under appeal offered choice as to questions or topics, care should be taken to ensure that as far as possible the papers chosen for comparison reflect similar choices.
  - Where the student is appealing the grades received on only one or several of the questions on the exam or assignment, as far as possible, the grade variations set out in paragraph 9(d) should relate to the question or questions under appeal.
10. The members of the Appeal Board shall independently review the grade assigned to determine whether, in their opinion, an error has been made in grading the work of the student in the context of the mode of grading and the grades assigned the other students whose work is being used for comparison.
  11. The members of the Appeal Board, after completing their independent review, shall meet and determine whether:
    - (a) the mark should remain unchanged;
    - (b) the mark should be lowered, and by how much; or
    - (c) the mark should be increased and by how much.
  12. The Appeal Board shall report its decision, with reasons, to the Associate Dean Academic within fifteen (15) working days of its appointment.

13. Where the Appeal Board is unanimous that there was an error in grading, the mark under review shall be changed in accordance with the recommendation of the Appeal Board. Otherwise, the grade shall remain unchanged.
14. The Associate Dean Academic shall provide a copy of the decision of the Appeal Board to the student and faculty member involved in the appeal.

## Part II Appeals: Unfairness, impropriety or incompetence

1. A student, having received the **final** grade in a class, may seek a formal appeal of
  - (a) the grade for any unwritten component of the course, or
  - (b) any other aspect of the evaluation method(s) used in the course,
 on the basis that there was material unfairness or impropriety in the manner in which the evaluation was conducted or that the evaluation was not conducted by competent evaluators.
2. **An appeal brought under this Part will only be successful if the student can demonstrate material unfairness, impropriety or incompetence;** this Part does not provide for an appeal based solely on a difference of opinion between the student and faculty member as to the mode of evaluation or the grade assigned to the student.
3. (1) The Request for an Appeal under this Part shall contain the following information:
  - (a) the student's name and exam code number;
  - (b) the name of the class and of the faculty member(s) who taught and/or evaluated it;
  - (c) a full explanation of the nature of the unfairness, impropriety or incompetence being alleged; and
  - (d) where relevant, a copy of the assignment or exam questions.

(2) Where the appeal involves exam booklets or a paper or assignment not already in the possession of the office of the Associate Dean Academic, the student shall ensure that the Request for an Appeal is accompanied by the exam booklets, paper or assignment originally submitted by the student.
4. Upon receipt of a Request for an Appeal under this Part, the Studies Committee shall
  - (a) where the Studies Committee is of the opinion that the student has not, *prima facie*, demonstrated material unfairness, impropriety or incompetence in accordance with section 2, notify the student that the appeal has been terminated; or
  - (b) where the Studies Committee is of the opinion that the student has, *prima facie*, demonstrated material unfairness, impropriety or incompetence in accordance with section 2, permit the appeal to proceed.
5. Where the Studies Committee permits an appeal to proceed under this Part, the Associate Dean Academic shall

- (a) notify the student involved; and
  - (b) forward to the faculty member who assigned the grade in question the student's Request for an Appeal.
6. (1) Within ten (10) working days of receiving the Request for an Appeal under paragraph 5(b), the faculty member shall provide to the Associate Dean Academic a response to the Request for Appeal.
    - (2) Where in the opinion of the Associate Dean Academic it is impossible or impractical to obtain the response of the faculty member referred to in subsection (1) within a time frame that would not prejudice the student, the Studies Committee may decide the appeal.
  7. The Associate Dean Academic shall forward the faculty member's response to the student making the appeal.
  8. Within five (5) working days of receiving the faculty member's response under section 7, the student shall notify the Associate Dean Academic in writing as to whether or not he or she intends to continue with the appeal, and if so, whether he or she wishes an oral hearing.
  9. Where an appeal is to proceed by way of oral hearing, the Associate Dean shall, within reason, attempt to set the hearing date at a time that is convenient to all parties. In no event shall the oral hearing be scheduled more than sixty (60) working days after an oral hearing is requested under section 8.
  10. Where the appeal is not to proceed by way of oral hearing, the student shall, within ten (10) working days of receiving the faculty member's response under section 7, provide to the Associate Dean Academic a written reply to the faculty member's response.
  11. Where an appeal is not to proceed by way of oral hearing, the Associate Dean shall forward to the Studies Committee the Request for an Appeal, the faculty member's response received under section 6 and the student's reply received under section 10, and the appeal shall be decided by the Studies Committee.
  12. Once a formal appeal has been decided under this Part, the Studies Committee shall provide the student and the faculty member involved with a written decision, including the reasons for its decision.

### **C. Reconsideration of a Studies Committee Decision**

1. (1) Where a student has received a decision of the Studies Committee made under these Appeal regulations, he or she may request a reconsideration of that decision where the student has new information that
  - (a) was not and could not reasonably have been available to the student at the time of the appeal; and

(b) is sufficient to persuade the Studies Committee to change the decision.

(2) A request for reconsideration must be made as soon as possible after the further information becomes available.

(3) Where the Studies Committee is of the opinion that the student has met the requirements set out in subsections (1) and (2), the Studies Committee shall reconsider the matter and shall communicate the new decision in writing to the student and any others who might be affected by the decision.

#### **D. Finality Clause**

Except to the extent that the decision made under these Appeal Regulations may be appealed to the Senate Academic Appeals Committee,

- (a) a decision of an Appeal Board is final; and
- (b) subject to the section on reconsideration, any decision of the Studies Committee is final.

#### **E. Appeals to Senate Academic Appeals Committee**

The attention of students of the Faculty of Law is directed to the Terms of Reference of the Senate Academic Appeals Committee, as available on the Dalhousie University webpage, and in particular to the following provisions from those Terms of Reference (current as to March, 2006):

##### SENATE ACADEMIC APPEALS COMMITTEE

(As adopted by Senate May 16, 1996; and amended by Senate September 22, 1997, & October 9, 2003)

##### Functions

The Senate Academic Appeals Committee shall:

1. hear appeals from decisions at the Faculty level in cases brought by students regarding academic standards, course requirements, examinations and other evaluative procedures, grades, pass requirements, advancement requirements, graduation requirements and other University or Faculty academic regulations, when
  - a) the student has exhausted the approved appeal regulations and procedures of the respective Faculty; and

b) (i) the student alleges that a faculty member or agent of the University has omitted to make decisions on an academic matter; or

(ii) the student alleges that there were irregularities or unfairness in the application of the regulations in question.

2. not hear appeals:

...

b) by students on a matter involving a requested exemption from the application of Faculty or University regulations or procedures;

...