

REGULATIONS GOVERNING THE HEARING OF APPEALS FROM THE DISCIPLINARY COMMITTEE

Pursuant to paragraph 3(1)(g) of Statute XIX of the University of Hong Kong Ordinance:

1. (a) A student desiring to appeal to the Council under the provisions of paragraph 7 of Statute XXXI ('the Appellant') against any decision, finding or order of the Disciplinary Committee shall commence his or her appeal by sending to the Registrar a notice of appeal in writing stating the grounds of the appeal and, if it is proposed to present any additional evidence, the nature of any such new evidence and the reasons why it was not adduced at the hearing of the Disciplinary Committee.
(b) Upon receipt of a notice of appeal the Registrar shall inform the Chairman of the Council and notify the person responsible for the presentation of the University's case ('the University's representative') as to whether he or she wishes to present further evidence in respect thereof.

2. (a) As soon as may be possible after the procedure provided in paragraph 1 hereof and upon taking advice from the Chairman of the Council as to the choice of the panel hearing the appeal pursuant to paragraph 2(la) of Statute XIX ('the Panel') the Registrar shall arrange for the hearing of the appeal.
(b) The Registrar shall arrange for a legal adviser to be present at the hearing, not being the same individual who acted as legal adviser to the Disciplinary Committee from which the appeal has arisen.
(c) No Council member who sat on the Disciplinary Committee shall be entitled to sit at the hearing.

3. (a) A notice shall be served by the Registrar upon the Appellant giving him or her at least fourteen days' notice of the hearing either by delivery to him or her personally or by sending it by registered post addressed to him or her at his or her last known or usual place of abode.
(b) Together with the notice of the hearing there shall be sent to the appellant:
 - (i) a copy of the Minutes of the proceedings of the Disciplinary Committee;
 - (ii) a copy of any additional report prepared by the Disciplinary Committee and submitted to the Panel in connection with the appeal; and
 - (iii) any further evidence the University representative wishes to present.
(c) The Appellant or his or her representative may write, giving reasons, to the Registrar for postponement of the hearing. The Registrar shall have power to postpone the hearing provided that the reasons given appear to the Registrar to be satisfactory.

4. (a) The members and the Chairman of the Panel shall be appointed by the Council.
(b) The Registrar or his or her deputy shall be the secretary of the Panel but shall not be a member thereof.
(c) Not less than 50% of the members of the Panel present shall form a quorum, provided that any member who has not heard the full evidence shall not participate in reaching the decision.

5. At the hearing the Panel shall have the power to admit fresh evidence at its discretion but it will not generally do so unless:
 - (a) it appears to the Panel that the evidence is likely to be relevant and credible; and
 - (b) the Panel is satisfied that the evidence was not adduced at the hearing of the Disciplinary Committee, but that there is a reasonable explanation for the failure so to adduce it.

-
6. (a) At the hearing the Appellant or his or her representative shall first present the case for the appeal and thereafter the case against the appeal shall be presented by the University's representative.
- (b) Except where fresh evidence is admitted under paragraph 5 hereof the parties shall not call witnesses; provided that the Panel may in its discretion call witnesses.
- (c) Both the Appellant or his or her representative and the University's representative shall have the right to examine, cross-examine, and re-examine witnesses.
- (d) The Appellant or his or her representative shall have the right to reply to the case presented against him or her.
-
7. (a) At any time after a notice of appeal has been duly served but before the hearing commences the Appellant may abandon his or her appeal by giving a notice of abandonment to the Registrar in writing. Upon such notice being given the appeal shall be deemed to have been dismissed.
- (b) At any time during the hearing the Appellant may abandon his or her appeal either orally or in writing, upon which the appeal shall be deemed to have been dismissed.
-
8. (a) An appeal against any finding of guilt shall be allowed if the Panel concludes that in all the circumstances of the case the finding is unsafe or unsatisfactory or that there was a material irregularity in the course of the hearing before the Disciplinary Committee; and in any other case the appeal shall be dismissed. Provided that the Panel may, notwithstanding that the point raised in the appeal might be decided in favour of the Appellant, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.
- (b) The Panel shall, if it allows an appeal against any finding of guilt, quash the finding and acquit the Appellant.
- (c) On an appeal against penalty the Panel may substitute for the penalty imposed by the Disciplinary Committee the penalty which it thinks the Disciplinary Committee ought to have imposed; and in any other case shall dismiss the appeal.
-
9. In reaching the decision the Panel shall take into consideration any period of temporary withholding imposed by the Vice-Chancellor pending the appeal pursuant to paragraph 8 to Statute XXXI.
-
10. Decisions of the Panel, which shall be final, shall be made by a majority of the members present and voting at a duly constituted meeting. In the event of an equality of votes the Chairman of the Panel shall have a casting vote in addition to his or her original vote.
-
11. The proceedings of the appeal shall be *in camera*, unless the Panel shall otherwise decide. While the Panel is considering the decision on the appeal the Appellant and his or her representative and the University's representative shall withdraw from the proceedings and shall thereafter return to hear the decision.