

## **Learner non-academic appeals procedure**

### **Parent policy**

Learner Appeals Policy #500-1-12

### **Purpose**

This document outlines appeals procedures related to Bow Valley College learner non-academic appeals.

### **Scope**

This policy applies to all Bow Valley College learners, regardless of location or modality. This procedure does not apply to academic appeals (refer to Learner Academic Appeals Procedure) grade appeals (refer to Learner Grade Appeals Procedure) or to admission appeals (refer to Admissions Policy and Procedure).

### **Compliance**

Members of the College community are responsible for knowing, understanding, and complying with Bow Valley College procedures to the extent that procedures relate to their position, employment, or enrolment at the College.

### **Procedures**

#### **1. General**

- 1.1. When a learner disagrees with a non-academic decision that has been made in regard to that learner, this procedure outlines measures which may be taken to address the issue.
- 1.2. Any costs incurred by the learner in the appeal process are the learner's responsibility.
- 1.3. This procedure is not the means of addressing disagreements with policies, procedures, regulations, or other types of rules.
- 1.4. Exceptions to this procedure can be made by the Vice President, Academic, depending on the basis of the appeal, in situations of extenuating circumstances, provided the exceptions align with the general principles of this procedure and the associated policy.

#### **2. Learner Request for an Appeal**

- 2.1. A learner who disagrees with a non-academic decision has the right to request an appeal hearing.
  - 2.1.1. Appeal hearings related to non-academic misconduct will be heard by a hearing committee as outlined in Section 3.
  - 2.1.2. In matters where the learner is appealing a decision made under the Sexual Violence Policy/Procedure, the complainant involved will be consulted in relation to who hears the appeal. The complainant will have the opportunity to express if they would prefer the case be heard only by the Chair or the entire Appeal Committee.
- 2.2. The request for an appeal is to be made in writing by submitting the Learner Appeal Request Form found under Student Forms, Policies, and Publications on the College website. It must include the following information:
  - 2.2.1. A brief explanation of the decision being appealed. If the decision was communicated to the learner in writing, a copy of that communication should be submitted with the appeal request.
  - 2.2.2. Reasons why the learner believes the decision that is being appealed was not correct or appropriate to the situation.

- 2.2.3. Identification of at least one of the following ground(s) of appeal upon which the learner is relying:
  - 2.2.3.1. Medical or compassionate reasons
  - 2.2.3.2. Mitigating Circumstances
  - 2.2.3.3. Procedurally Unfair
  - 2.2.3.4. Undue Hardship
  - 2.2.3.5. New Information
- 2.2.4. A copy of any documentation the learner wishes to include in support of the appeal.
- 2.2.5. A statement of the desired outcome of the appeal and the remedy sought by the learner.
- 2.3. If the appeal request does not mention reasons related to appropriate grounds, the appeal request will be denied.
- 2.4. Appeal requests must be submitted to the Office of the Registrar within 15 days of when the learner was notified of the decision which is being appealed.
- 2.5. The Students' Association of Bow Valley College will provide assistance to learners who may lack the language or literacy skills to complete an appeal request on their own.

### **3. Appeals Process**

- 3.1. Responsibility for Appeals Process: The Office of the Registrar and Enrollment Services is responsible for administering the process for appeals.
- 3.2. Notification of the Appeal Process
  - 3.2.1. The Office of the Registrar shall, within 5 business days of receipt of the learner's written request for an appeal, schedule the hearing. As soon as possible, the learner and the department who rendered the non-academic decision shall be informed of the following:
    - 3.2.1.1. Date and time of hearing
    - 3.2.1.2. Sufficient particulars of the nature of the proceedings so as to allow the learner and department to prepare relevant evidence and arguments
    - 3.2.1.3. The deadline for submitting written evidence for the hearing (see below)
    - 3.2.1.4. The right for both the learner and the department to have a second person in attendance
- 3.3. Membership of the Learner Appeals Committee
  - 3.3.1. It is the responsibility of the Learner Appeals Committee Chair to constitute an appropriate Learner Appeals Committee to hear an appeal.
  - 3.3.2. A Learner Appeals Committee will be constituted as follows:
    - 3.3.2.1. Chair
    - 3.3.2.2. A Bow Valley College employee
    - 3.3.2.3. A learner representative selected by the Students' Association of Bow Valley College
  - 3.3.3. All 3 members of the committee must be present in order for the hearing to take place except pursuant to 2.1.2.
  - 3.3.4. The role of the committee members is to be objective, independent, and neutral. They are not acting as advocates for the College or learner.
  - 3.3.5. All committee members who are hearing cases under the Sexual Violence Policy are required to have sexual violence support and sensitivity training
  - 3.3.6. The members of the Learner Appeals Committee shall not have a conflict of interest or possibility of bias in the case being heard: they should have no direct involvement in the matter that is being appealed, not be from the academic department of the program in which the learner is enrolled, not be in the department associated with the decision being appealed, and not be otherwise in a position of conflict of interest with the learner or the matter being appealed.

- 3.3.7. In the event that the Chair does not meet the above criteria for a particular case, the Director responsible for Student Services shall appoint another individual to serve in the Chair's place.
- 3.3.8. Upon being informed of who the members of the committee will be, the learner has 2 business days to challenge who the members are. In order for the challenge to be considered, the learner must provide information about the reason for the challenge and the reason must be on grounds of the potential for bias or conflict of interest.
- 3.4. Learner Non-Academic Appeal Hearing
  - 3.4.1. A learner appeal hearing involves both the learner and the spokesperson for the department responsible for the decision being appealed. Both the learner and the spokesperson are given opportunities to present their case to the committee and respond to information presented by the other party.
  - 3.4.2. Any written evidence that either the department spokesperson or the learner wishes to use in the appeal hearing must be provided to the Chair of the Learner Appeals Committee 4 business days before the appeal. It is the responsibility of the Chair to forward that information to the other party expediently.
  - 3.4.3. The learner has the right to be accompanied by one individual (e.g., a member of the Students' Association Executive, or a fellow learner) at the hearing, provided that the Chair of the Learner Appeals Committee is notified in advance of the name of the individual and their relationship to the learner. The learner is expected to make his or her own representation to the Learner Appeals Committee and the role of the other individual is to provide moral support to the learner and act as an observer of the appeal and is to refrain from participating in the hearing proceedings. Representation of the learner by another person shall be allowed only in exceptional, extenuating circumstances upon prior consent of the Chair of the Learner Appeals Committee.
  - 3.4.4. The department representative of the decision-making area has the right to bring one additional person as an observer, but that person is expected to refrain from participating in the hearing proceedings unless called upon.
  - 3.4.5. The learner or a College official involved in the appeal may request that an additional resource person(s) be asked to join the committee as a non-voting participant. A resource person is someone, preferably from within the College, with expertise in an area that is pertinent to the appeal (e.g., counsellor, Indigenous knowledge keeper, disabilities specialist, Information Technology specialist, Sexual Violence Response expert). The resource person(s) is approved by the Chair of the Learner Appeals Committee. This provision is subject to the availability of an appropriate resource person. The resource person must meet the criteria to which the other committee members are subject to regarding conflict of interest or bias. The resource person is present both during the hearing and the committee's deliberation following the hearing.
  - 3.4.6. In the hearing, both the learner and the department representative have the right to present their cases and be provided with the opportunity to respond to information and comments made by the other party.
  - 3.4.7. The Chair of the Learner Non-Academic Appeals Committee has the right to dismiss any accompanying individual who is disruptive during the hearing.
  - 3.4.8. The decision of the committee is made on the basis of the majority of votes from committee members. All members have the right to vote.
  - 3.4.9. The information disclosed, appeal documentation, and the committee's deliberations are to be kept confidential by committee members and resource persons.
  - 3.4.10. The decision of the Learner Non-Academic Appeals Committee is final.

**4. Notification of the Appeal Decision**

- 4.1. A letter (hard copy or electronic) stating the formal appeal decision must be sent to the learner within 5 business days of the hearing. The letter must provide the reason(s) for the decision made. The department representative is to be provided with copies of the same information.
- 4.2. In exceptional circumstances, such as when further investigation is required, these notification timelines may be extended but a decision should still be made and communicated as quickly as possible. Where the timelines are extended, the learner and the department representative involved are to be informed and to be provided with the expected date for notification of the decision.

**5. Learner Activities during the Appeal Process**

- 5.1. In situations where the learner has submitted a written appeal regarding a withdrawal or suspension from a program or specific courses, the learner is entitled to continue participation in classes from which she or he was withdrawn or suspended. This includes the right to continue participation in subsequent courses in a program in which the learner is registered. The learner must explicitly obtain permission to continue participating in courses from the Program Chair responsible for the learner's program. Permission will not be granted for continued participation in:
  - 5.1.1. Work placement courses (e.g., practicums, co-ops) where the appeal involves either withdrawal/suspension from a work placement course or a course which is a requirement for a work placement course.
  - 5.1.2. Courses for which it is deemed that a learner's attendance might put at risk the well-being or safety of others or if participation in the courses could result in disruption to the learning environment.
- 5.2. In situations where the learner has appealed a withdrawal or suspension from a program, the learner is also entitled to normal use of College services and participation in College activities during the appeal period, provided that the learner's presence is not considered to put at risk the well-being or safety of others.
- 5.3. If the outcome of the appeal is that the suspension or withdrawal is upheld, the learner must discontinue participation in those classes when notified of the appeal outcome. In the case of withdrawal from a program, the learner is also no longer eligible for College services or activities that are intended for learners only.

**6. Recordkeeping of Learner Appeals**

- 6.1. All learner appeal requests as set out in this procedure and the outcomes of those appeals are to be tracked. It is the responsibility of the Office of the Registrar to keep records of non-academic learner appeal requests.
- 6.2. Where the outcome of a learner appeal has an impact on a learner's student record and/or has significance to the learner's status, etc. (e.g., overturned learner withdrawal), reference to the appeal decision should be noted on the learner's record on the student information system. In other cases, the learner appeal request and resulting outcome are not normally noted on the student record.

**Definitions****College community:**

All learners, employees, elders, independent contractors, suppliers, volunteers, visitors and members of the Board of Governors of the College while they are either on or using College property, participating in College programs and activities or involved in the business or affairs of the College, on or off College premises.

**Medical or compassionate reasons:**

Significant unforeseen, unusual circumstances beyond the learner's control in either personal or family life that may affect performance related to College expectations. Examples include medical illness or injury which has significant impact, death of a close relative, other adverse experience that has significant impact on the learner.

**Mitigating circumstances:**

Facts that while not negating a particular unwelcome or negative decision, provide relevant reasons why the learner acted or performed in a particular manner that support reducing the severity of the decision made.

**Procedurally unfair:**

Inconsistency with one or more of the rules of natural justice, including by way of example but without limitation:

- a. one or more decision makers who participated in making the decision appealed from were not impartial.
- b. reasons for the decision appealed from were not provided to the learner; or
- c. the decision appealed arose from an unfair, inappropriate, or inaccurate application of a policy, procedure, rule, or calculation.

**Undue hardship:**

Circumstances or decisions that present an unreasonable or disproportionate burden or obstacle for the learner.

See Policy for further definitions.

## Data sheet

### Responsible officer

Dean responsible for the Office of the Registrar.

### Relevant dates

Approved	Executive Team: EXT20221122-06
Effective	November 22, 2022
Next review	TBD
Modification history	
Verified By	Office of the President, January 2023*

### Related policy

Learner Appeals Policy #500-1-12

### Associated policies, procedures, and guidelines

Learner Code of Conduct Policy #500-1-1  
Learner Code of Conduct Procedure #500-1-1  
Sexual Violence Policy #500-1-19  
Sexual Violence Procedure #500-1-19  
Admissions Policy and Procedure #500-1-2

### Related legislation

Alberta Post-Secondary Learning Act  
Freedom of Information and Privacy Protection Act and Regulation

### Attachments

N/A