



## SENATE BYLAW

### **Bylaw 32: Procedural Irregularities and Discrimination Regarding Academic Instruction, Academic Evaluation and Academic Grade Appeals**

APPROVED by Senate: 6 November 2007

AMENDED by Senate: 10 June 2016.

AMENDED Due To Administrative/Organizational/Name Changes: April 11, 2014, October 10, 2014, June 10, 2016, March 9, 2018.

Note: For the purpose of this bylaw, all communications (including signatures, notices, memos, invitations, decisions, etc.) may be electronic

#### **1. Procedures and Discrimination Committee**

- 1.1 There shall be a Procedures and Discrimination Committee whose membership shall be approved by the Senate Governance Committee. The Procedures and Discrimination Committee shall hear petitions from students on the grounds of discrimination, bias, sexual or other forms of harassment and procedural irregularities, regarding academic instruction, academic evaluation, or academic grade appeals, and shall have final and binding jurisdiction over such matters.
- 1.2 The Procedures and Discrimination Committee shall be composed of two faculty members, appointed for a two-year term (one of whom shall be appointed as chair), and one student, appointed for a one-year term. Two faculty member alternates shall also be appointed by the Senate Governance Committee for a two-year term. Regular faculty members (as defined in Bylaw 20, 1.1(ii)), sessional lecturers, and librarians are eligible to serve as faculty member representatives on the Procedures and Discrimination Committee. The student appointed to the Procedures and Discrimination Committee and two student alternates shall be selected by the Senate Governance Committee from a list of nominees submitted annually by the University of Windsor Students' Alliance, the Graduate Students' Society and the Organization of Part Time University Students. The President of the University may appoint a replacement for a member of the Procedures and Discrimination Committee or pool of alternates, where the individual is unable to serve, or in other extenuating circumstances, bearing in mind the constituency represented by that member.
- 1.3 The Procedures and Discrimination Committee shall have the power to impose sanctions, orders, or make recommendations the Committee deems appropriate in the circumstances.
- 1.4 A quorum of the Committee on Procedures and Discrimination shall be its full membership.

#### **2. Filing a Petition**

- 2.1 A student alleging discrimination, bias, sexual or other forms of harassment and irregular procedures, regarding academic instruction, academic evaluation or academic grade appeals, shall normally attempt to resolve the matter with the Faculty Dean or AAU head prior to lodging a petition with the Procedures and Discrimination Committee. A student may choose to refer a complaint to the AAU Head or Dean of

the Faculty concerned or may choose to refer the complaint directly to the Associate Vice-President, Student Experience. The AAU Head, the Dean of the Faculty concerned, or the Associate Vice-President, Student Experience, as the case may be, shall investigate the complaint and, if appropriate, attempt to facilitate an informal resolution to the matter. In the event that the allegation by the student concerns the Dean, the AAU Head, or the Associate Vice-President, Student Experience, or after the Dean, the AAU Head, or the Associate Vice-President, Student Experience has been consulted (as per this paragraph 2.1), the student may petition directly to the Procedures and Discrimination Committee through the University Secretariat.

- 2.2 Any formal petition alleging discrimination, bias, sexual or other forms of harassment or procedural irregularity, shall be made in writing to the University Secretariat, which shall provide copies to the Chair of the Procedures and Discrimination Committee, the Dean of the Faculty concerned, and the AAU Head, outlining the allegation and circumstances surrounding the incident.
- 2.3 A petition in 2.2 above shall normally be delivered to the University Secretariat within sixty calendar days of the alleged incident.

### **3. Adjudication by Procedures and Discrimination Committee**

- 3.1 The Procedures and Discrimination Committee shall request clarification or cause an investigation to be made within thirty calendar days of notification under paragraph 2.1 or within thirty days of having received a referral indicating that the student's petition under Bylaw 51 is more properly within the jurisdiction of the Procedures and Discrimination Committee. If the Committee deems appropriate, it shall conduct a hearing into the allegations within thirty calendar days of having concluded its investigation.

- 3.1.1 Following the investigation conducted under 3.1, the Committee shall normally attempt to resolve the matter informally, where appropriate.

- 3.2 Conduct of Hearings

- 3.2.1 The parties shall be given at least ten calendar days' written notice of the hearing unless this right is waived. The notice shall be deemed to have been received by the parties three working days after it has been sent.

- 3.2.2 The parties shall have the right to have an advisor or counsel present at a hearing.

- 3.2.3 The parties shall have the right to present evidence in support of their cases. They shall have the right to full disclosure of any evidence upon which the parties will rely, including lists of witnesses. The parties shall normally exchange such evidence a minimum of seven calendar days prior to the hearing. Parties shall be permitted to exchange new evidence that comes to light in the period between this deadline date and the last working day before the hearing, and may present, at the hearing, a revised list of witnesses and/or additional documentary evidence with the permission of the Chair of the Procedures and Discrimination Committee and where the interests of justice warrant it. The parties shall come to the hearing with five copies of the evidence upon which they will rely for the Procedures and Discrimination Committee, the other party at the hearing, and the official file in the University Secretariat.

- 3.2.4 The Procedures and Discrimination Committee shall have control over its own procedures, and may set appropriate additional procedures, as needed, in compliance with the procedures specified in this bylaw:

- 3.2.4.1 The Procedures and Discrimination Committee may grant a recess or adjournment, if requested, to provide the parties with the opportunity to review additional

documentary evidence submitted at the hearing. The Procedures and Discrimination Committee may also grant a recess or adjournment at any time to ensure a fair hearing.

- 3.2.4.2 Any party to the proceedings before the Procedures and Discrimination Committee may call witnesses and cross-examine witnesses called by another party. Parties are responsible for producing their own witnesses and paying for any costs associated with their appearance. The Chair of the Procedures and Discrimination Committee may limit the number of witnesses or amount of cross-examination where further evidence or cross-examination shall be repetitive or irrelevant.
- 3.2.4.3 The Procedures and Discrimination Committee, through the Chair, may address questions to any witness in the pursuit of clarification or fairness, and may call their own witnesses.
- 3.2.4.4 Witnesses, other than the parties involved and their advisors, shall not be permitted to attend any hearing open to the public (see 3.4), until after they have testified and responded to questions.
- 3.2.4.5 The Procedures and Discrimination Committee may request the submission of additional information.
- 3.2.4.6 The Procedures and Discrimination Committee shall only admit evidence and testimony provided through the procedures outlined in 3.2.3, and 3.2.4.2-3.2.4.5.
- 3.2.4.7 The Procedures and Discrimination Committee is not bound by the laws of evidence applicable to judicial proceedings but shall be guided by the principles of fairness and justice.
- 3.2.4.8 Where there are two or more proceedings involving the same matter, or similar questions of fact or policy, being adjudicated at the same time, the Procedures and Discrimination Committee may combine all or part of the proceedings, run the proceedings concurrently, or run the proceedings consecutively.
- 3.2.4.9 All hearings shall be audio-recorded. Any party to the hearing may request a copy of the recording solely upon official proof of the intent to file for a judicial review of the proceedings. Audio-recordings released to the parties may not be copied or distributed. Files and audio-recordings shall be kept, in confidence, for one year following the date of the hearing, in the University Secretariat, and shall be disposed of thereafter, provided that they have been kept for a minimum of one year beyond their last use. Costs involved in the copying of recordings and any transcription shall be borne by the party requesting a copy or transcription of a recording.

3.3 The Committee shall have the power to waive or extend deadlines when the interests of justice warrant or where no substantial prejudice would result.

3.4 The hearing shall be held in camera unless otherwise requested by the individual against whom the allegation is made, in which case the Committee shall order the hearing to be opened to the public, except where the Committee is of the opinion that intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Committee may hold the hearing concerning any such matters in camera.

#### **4. Standing at Hearings**

The following persons shall have standing to make representations before the Procedures and Discrimination Committee:

4.1 The student who filed the petition, and/or his/her counsel or agent;

4.2 The individual(s) who is the subject of the allegation, and/or his/her counsel or agent;

4.3 The Dean of the Faculty concerned and, in the case of a departmentalized Faculty, the AAU head of the department concerned and/or his/her counsel or agent.

#### **5. The Ruling of the Procedures and Discrimination Committee**

5.1 Within fifteen calendar days of the conclusion of the investigation or the hearing, as the case may be, the Chair of the Committee shall report its decision to the parties and to the President through the University Secretariat.

5.2 The report shall be in writing and shall consist of the decision of the Committee, and if requested, written reasons for the decision.

5.3 The decision of the majority of the Committee shall be the decision of the Committee and shall have final and binding effect.

#### **6. Report to Senate**

Matters before the Committee are confidential, subject to 3.4. The Chair of the Procedures and Discrimination Committee shall present an annual report to Senate summarizing the proceedings under this bylaw (if any), including a broad summary of the cases heard by and dispositions of the Committee under 3.2, along with any recommendations. The reports filed in the University Secretariat, relating to these matters, shall be made available to the Chair for this purpose.