

4. Non-Academic Misconduct (Disciplinary) Code of Appeals

- 4.1 Any student dissatisfied with disciplinary action may appeal in the first instance to either:
- (a) in the case of a finding of gross misconduct, the **Academic Board Appeals Committee** (Discipline),
 - (b) in the case of a finding of minor or serious misconduct, the Director of another School or Academic Unit in which the student does not attend;
- (hereinafter each referred to as the "Appeals Committee").

Appeals must be intimated by the student giving written notice, to the Head of AAS (or nominated equivalent), who, as quickly as practical shall arrange for a hearing before the relevant Appeals Committee.

- 4.2 In the event that an appeal is being heard by the Appeals Committee (Discipline), as opposed to by a single Director, the composition of the Appeals Committee shall be as follows:
- (a) the Director of a School/Academic Unit in which the Appellant is not a student (in appeals related to gross misconduct which might constitute a crime, the Deputy Principal may replace the Director of a school/academic unit in which the appellant is not a student);
 - (b) a Head of Programme/Head of Department from that other School who has no prior involvement in the case;
 - (c) an external representative of the Academic Board.
- 4.3 In the event of one of the foregoing being unavailable or inappropriate due to absence, illness or other good cause, the Principal may nominate another suitable person to take the place of the person who is unavailable.

4.4 Lodging of an Appeal

- 4.4.1 A student who wishes to appeal must do so by sending a written statement of appeal to the Head of AAS (or nominated equivalent) at the latest within 10 working days following the date of the decision being appealed, provided that the student is still a student of the Conservatoire as at the date on which the Appeals Committee writes to the student with its decision. The period may be extended if the student satisfies the Appeals Committee that it was not reasonably practicable to lodge an appeal in time.
- 4.4.2 In the case of **expulsion**, the appeal may be made on any grounds considered relevant by the Appellant.
- 4.4.3 In any other case, the only competent grounds for appeal are that:
- (i) New evidence has emerged that could not reasonably have been produced to the Director of the School/Directorate of which the student is a member;

- (ii) There has been a defective procedure before the Director of the School/Directorate of which the student is a member;
- (iii) The disposal by the Director of School/Directorate of which the student was a member was perverse.

4.4.4 The statement of appeal must include:

- (a) all the grounds on which the student wishes to rely;
- (b) the remedy which the student seeks;
- (c) a request, if the student wishes, to make oral representations at any hearing which may be held;
- (d) a list of witnesses whom the student considers have evidence relevant to the appeal.

4.4.5 On receipt, appeals will be referred to the Convenor of the Conservatoire Appeals Committee (Discipline) or the Director of the School/Directorate, as appropriate, who may dismiss the appeal because no competent grounds have been stated or because the appeal is out of time.

4.4.6 Provided that the appeal is not dismissed in terms of 4.4.5, an appeal hearing shall be fixed without unreasonable delay.

4.5 **Appeal Hearing**

4.5.1 The Appeals Committee will hear evidence from the Appellant and any relevant witness(es) identified by the Appellant.

4.5.2 The Appeals Committee shall inform the Appellant in writing of the date, time and place of the appeal hearing;

4.5.3 Appellants may be represented at the appeal hearing by a person of their choice, including a solicitor or counsel, provided the identity of such a representative is intimated in writing to the Head of AAS (or nominated equivalent) at least three days prior to any hearing.

4.5.4 The Appeals Committee shall inform the person or body whose decision is being appealed of the grounds of appeal and offer that person or body the opportunity of presenting oral or written evidence. Such person or body shall be required to identify any person from whom the Appeals Committee should take oral and/or written evidence. Such person or body shall be required to identify any person from whom the Appeals Committee should take oral evidence in sufficient time to enable the Appeals Committee to advise the Appellant in writing of the identity of said person(s) in advance of the hearing. Normally the Appellant will be provided with a copy of any witness statements in advance of the appeal hearing.

4.5.5 The Appeals Committee may dispose of the case, notwithstanding the failure of the Appellant or any other person concerned to attend at an appeal hearing.

4.5.6 The person or body who made the disciplinary decision may be asked by the Appeals Committee for a statement of the grounds on which the decision

appealed against was reached, and also for such evidence and material which was available to justify the decision.

4.5.7 The Appeals Committee shall have all evidence and material obtained which is relevant to the appeal.

4.6 **Appeal decision**

4.6.1 The appeal hearing will be conducted in such a manner as to allow the Appellant to put forward their grounds of appeal. The Appeals Committee will decide the matter at the conclusion of the hearing or without unreasonable delay thereafter.

4.6.2 Decisions may be by a majority where the appeal is being determined by the Conservatoire Appeals Committee (Discipline), as opposed to by a Director of a School/Directorate.

4.6.3 The Appeals Committee shall intimate the decision in writing to the Appellant and to the Principal.

4.7 **Second Appeal to the Board of Governors Appeal Panel**

4.7.1 A second appeal may be made to the Board of Governors Appeal Panel (“the Panel”) against a decision of the Appeals Committee, provided that the student is still a student of the Conservatoire as at the date on which the Appeal Committee writes to the student with its decision. The request for such a second appeal should be made in writing to the Head of AAS (or nominated equivalent) within 10 working days of the date of the Appeals Committee’s decision and must provide details of the grounds of appeal against the Appeals Committee’s decision.

4.7.2 The only competent grounds of appeal by a student against the decision of the Appeals Committee are that:

(a) new evidence has emerged which could not reasonably have been produced to the Appeals Committee;

(b) there has been defective procedure before the Appeals Committee;

(c) the disposal by the Appeals Committee was perverse.

4.7.3 The details of the grounds of appeal listed in 4.7.2 must specify what new evidence and why it was not produced to the Appeals Committee, or in what respects the procedure was defective or in what way the disposal was perverse, as the case may be.

4.7.4 The Panel shall consist of a minimum of two lay Governors and the Principal, unless inappropriate or prevented by illness, absence or other good cause, in which case there shall be three lay Governors.

4.7.5 The Panel shall appoint one of its members to be Convenor who, in cases of an equality of votes, shall have a second or casting vote.

4.7.6 The Panel shall be bound, as far as appropriate, by the same rules of procedure as apply to the Appeals Committee as are more fully set out in paragraphs

4.5.4, 4.5.5, 4.6 and 4.7, substituting the word “Panel” for the words “Appeals Committee”.

4.8 Records

The Conservatoire will keep a record of disciplinary proceedings, including the written statement setting out the relevant allegations or circumstances surrounding the potential disciplinary action, all letters sent to or by it in relation to that, written statements and minutes of meetings and appeal hearings. These records will be maintained in accordance with the Conservatoire's obligations in terms of data protection legislation.

