

SUBJECT: GUIDELINE FOR THE CONDUCT OF AN APPEAL UNDER SECTION 60(3) OF THE UNIVERSITY ACT

1. General Principles

The Board of Governors of the University of Northern British Columbia (“Board”) is a body established by statute which is granted certain statutory powers of decision. These powers must and will be exercised in conformity with the principles of natural justice and administrative fairness.

When the Board is making a decision about the status of an employee, the law requires that the employee who will be affected by the decision knows the case against him/her and has a fair and full opportunity to respond to that case before the Board reaches a decision.

2. Appeal of Suspension

An employee (“Employee”) has the right under Section 60(3) of the *University Act* (“Act”) to appeal to the Board a decision made by the President of the University of Northern British Columbia (“President”) to suspend him/her. This right of appeal is unconditional. Therefore, if an appeal is taken by an Employee, it will be heard by the Board. The Board will act to hear such appeals expeditiously.

3. Procedure for Appeal

3.1 An Employee who wishes to appeal, under section 60(3) of the *Act*, a suspension imposed by the President under section 60(1) of the *Act*, will do so by notifying in writing the Secretary of the Board (“Secretary”) of his/her appeal.

3.2 The Secretary, having received an appeal under section 60(3) of the *Act*, will notify both the Chair of the Board (“Chair”) and the President that the Board has received an appeal. The Secretary will also acknowledge receipt of the appeal and transmit a copy of this Guideline to the Employee. The Chair will thereafter require the President to state in writing the grounds for the Employee’s suspension (“Formal Statement”). The President will prepare and deliver the Formal Statement within ten (10) working days following notification by the Secretary that the Employee has appealed his/her suspension. The Formal Statement will include a detailed description of the factual basis for the President’s decision to suspend the Employee including copies of such documents as are necessary to inform the Employee fully and fairly of the case for his/her suspension. A copy of the Formal Statement will be delivered by courier to the Employee, and by any reasonable means to both the Chair and the Secretary.

3.3 The Employee will prepare a written response (“Response”) to the Formal Statement. The Employee will deliver the Response within ten (10) working days of his/her receipt of the Formal Statement. The response will include a detailed description of any factual dispute between the Employee and the President and will refer to and, where possible, include copies of any documents on which the Employee relies to support his/her version of the facts. The Employee will deliver the Response by any reasonable means to the President, the Chair, and the Secretary.

3.4 The Board will meet to hear and decide the Employee's appeal. A copy of both the Formal Statement and the Response will be provided to each Board member at the time the agenda for the meeting is distributed. Both the President and the Employee, in that order, will be invited to make oral submissions to the Board based on the Formal Statement and the Response. The purpose of these submissions is to ensure that both the President and the Employee have a full opportunity to present their respective cases.

3.5 In making their decision about the appeal, Board members will receive and consider only that information and those submissions which are provided to them in conformity with this Guideline. However, should Board members decide that they need to obtain further information in order to make a fair and fully informed decision about the appeal, the information required and the process for obtaining that information will be reviewed with the Employee and the President before any steps are taken to obtain the information. The process used for obtaining such information must comply with the principles set out in this Guideline.

3.6 Once submissions have been made by the President and the Employee, Board members may ask any questions they have of the President and the Employee. The President and the Employee, in that order, will then be asked to make any supplementary submissions they may have as a result of the Board members' questions. The Board will then recess to review the information provided and submissions made by the President and the Employee, to conduct its deliberations, and to make its decision.

3.7 Although the President is a member of the Board *ex officio*, he/she will neither participate in the Board's deliberations, nor communicate with Board members, about the appeal except by using the procedures established by this Guideline.

3.8 The Employee will communicate with Board members about his/her appeal only by using the procedures established by this Guideline.

3.9 All procedures related to the appeal of a suspension will take place *in camera*.

3.10 The Board, the President, and the Employee may be represented during these procedures by counsel. If the Employee chooses to use counsel, he/she will be solely responsible for his/her legal costs.

3.11 The Chair, or his/her delegate, has the unfettered discretion:

3.11.1 to extend the time limits established by this Guideline where, in his/her opinion, such an extension is required in order to ensure that the general principles set out above are satisfied;

3.11.2 to approve a means of delivery for both the Formal Statement and any communications from the Board to the employee in circumstances where delivery by courier is not practical; and

3.11.3 to provide directions concerning the disclosure of documents by the President or the Employee if such disclosure is required to ensure that the general principles set out above are satisfied.