



Gujarat National Law University

**Gujarat National Law University**  
**Administrative Directive**  
**GNLU/AD/15/11**

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**Subject: Appeals Council**

**1.0 INTRODUCTION**

With a view to ensure fairness and administration of justice in effective and efficient manner in all administrative and services related matter, GNLU shall have the Appeals Council. Employees have the right of appeal against any administrative decision alleging non-observance of the terms of appointment, including relevant GNLU Regulations and directives, or against disciplinary action. The Director shall establish administrative machinery to advise him in case of any appeal by a staff member. An "Appeals Council" shall be established to consider and advise the Director on appeals filed by employees, on regular and short-term appointments.

This contains rules and guidance for the functioning of the Appeals Council (hereinafter referred to as "Appeals Council"). However, the Chairperson may deviate from these rules of procedure if, in his/her view, this is necessary for the appropriate functioning of the Appeals Council.

**2.0 GENERAL**

**A. Definitions**

For the purposes of these rules of procedure, unless otherwise indicated;

1. "Appeal" shall mean a complaint which is being pursued GNLU Regulations.
2. "Appellant" shall mean any individual who has initiated a complaint under GNLU Regulations.
3. "Appeals Council" shall mean all members of the Appeals Council.
4. "Panel" shall mean those members of the Appeals Council who are appointed to consider specific appeal proceedings initiated by a particular party.
5. "Calendar" shall mean the chronological list of appeals pending before the Appeals Council.
6. "Conciliating Officer" shall mean the member of the Appeals Council designated by the Chairperson to assist the parties in settling the case.
7. "Conciliation" shall mean the procedure aimed at reaching a conciliatory conclusion.
8. "Day" shall mean regular calendar day, unless otherwise indicated.
9. "Executive session" shall mean any meeting of the panel in camera.
10. "Hearing" shall mean an official meeting of the panel that could be held in camera if the Chairperson deems it necessary. A hearing is arranged to collect facts about the case. Both parties must be invited to attend and to participate in the hearings.
11. "Notice" shall mean written notice unless otherwise stated.
12. "Parties" shall mean the appellant and the respondent. Wherever "parties" are mentioned in these rules, the term "and/or their representatives" is implied also, unless otherwise indicated.
13. "Representative" shall mean the representative of the appellant. The representative may be any staff member or retired staff member holding or having held a contract under GNLU Regulations who agrees to assist an appellant or prospective appellant in presenting, settling or conciliating an appeal.
14. "Representative of the Director" shall mean a staff member of the University appointed to represent the Vice-Chancellor in an appeal.

15. "Respondent" shall mean the Director of the GNLU or his or her representative as defined above.
16. "Review" shall, unless otherwise indicated, mean administrative review.
17. The "secretariat" or "the Appeals Council secretariat" shall mean the secretariat of the Appeals Council and the panel.
18. "Secretary of the Appeals Council" shall mean the staff member who is currently serving as Secretary to the Appeals Council and the panel.
19. "Settlement" shall mean a binding resolution of the appeal by the parties.
20. "Staff member" shall mean a current or retired staff member of the Secretariat (holding or having held a contract under the GNLU Regulations).
21. GNLU Staff Regulations shall mean the Regulations and Rules adopted by the Executive Council of the GNLU.
22. "These rules" or "rules" shall mean the rules of procedure of the Appeals Council (as differentiated from the "GNLU Regulations").
23. "Time limit" shall mean the deadline for the filing of a submission or the taking of an action. For the purpose of these rules the time limit shall take effect upon the close of business on the date on which the submission is due or the action is to be taken, in accordance with these rules of procedure, or with a ruling made by the Chairperson or by the panel. If a time limit falls on a weekend or on an official holiday, the time limit shall be deemed to extend to the close of business on the first working day thereafter.
24. "Member" of the panel shall mean member or alternate member, as appropriate.
25. "Chairperson" of the Appeals Council shall mean Chairperson or alternate Chairperson, as appropriate.

**B. Interpretation**

The panel shall, to the extent required, interpret these rules of procedure.

**C. Amendments**

These rules of procedure may be amended by consensus of the Appeals Council members, at a meeting of the Appeals Council attended by all members.

**D. Alternate members**

Alternate members may attend meetings of the panel only if the principal member is not able to attend. They shall then assume all the rights and obligations of the principal members who they are representing. In exceptional circumstances, the Chairperson may allow both member and alternate member to be present in the meetings of the panel, but the alternate member shall not have the right to vote in such a case.

**3.0 ORGANISATION**

**A. Membership of the Appeals Council**

- (a) An "Appeals Council" shall be established to consider and advise the Director on appeals filed under GNLU Regulations.
- (b) The Appeals Council shall be composed of:
  - (i) one member appointed by the Director;
  - (ii) two members nominated by the staff, one each from academic and non-academic category.

- (c) An alternate for each person in paragraph (b) shall be selected in the same manner as indicated in that paragraph.
- (d) One of the members mentioned in paragraph (b) above shall be selected as the Chairperson by the members as mentioned in paragraph (b) above. The Chairperson and members of the Appeals Council shall be appointed or nominated for two years, shall be eligible for reappointment or re-nomination, and shall remain in office until their successors are appointed or nominated.
- (e) A Chairperson may be removed from a Appeals Council by the Director upon the recommendation of the Joint Advisory Board. The members appointed by the Director may be removed by him. The members nominated by the staff may be recalled by a majority vote of the staff, taken at the initiative of the all staff members.

The Chairperson shall:

- represent the Appeals Council and the panel and preside at all meetings of the Appeals Council and the panel;
- supervise and implement all time limits relevant to appeals proceedings;
- set alternative time limits, where necessary, for the consideration of appeals;
- ensure that cases are dealt with expeditiously;
- designate conciliating officers as he/she deems appropriate.

#### **B. The Appeals Council secretariat**

The Office of the Appeals Council shall consist of a Secretary and such other staff as may be required for its proper functioning.

The Secretary of the Appeals Council, supports the functioning of the Appeals Council and the panel in an independent and confidential manner. In this connection, the Secretary assists and advises the Chairperson in the performance of his/her functions, and provides support to the panel in its consideration of appeals against administrative decisions.

## **40 PROCEDURES**

### **A. Request for review**

A staff member wishing to appeal an administrative decision, pursuant to GNLU Regulations, shall, as a first step, address a letter to the Director, requesting that the administrative decision be reviewed; such a letter must be sent within one month from the date the staff member received notification of the decision in writing.

- (i) If the Director replies to the staff member's letter, he or she may appeal against the answer within one month of the receipt of such reply;
- (ii) if the Director does not reply to the letter within one month the staff member may appeal against the original administrative decision within one month of the expiration of the time-limit specified in this subparagraph for the Director reply.

### **B. Conciliation**

The Director, in reviewing the administrative decision in question, may, with the consent of the staff member or at the latter's request, seek the assistance of the Chairperson, a member or an alternate of the Appeals Council, to be designated by its presiding officer, with a view to reaching a conciliatory conclusion of the matter. This procedure is without prejudice to the right of the staff member to pursue an appeal under the provisions of this Rule.

During conciliation proceedings, the time limit in filing an appeal shall be suspended pending the conclusion of the conciliation effort. The conciliation proceedings should normally be completed within one month. However, the Chairperson can propose that the Director extend conciliation proceedings beyond that time. If the parties are satisfied with the conclusion and if the Director accepts the result, the matter shall not be entertained by the panel. Otherwise the time limits for submitting an application to the Appeals Council shall be the same as stipulated as above. If conciliation fails, the time limit set forth above starts running.

**C. Settlement initiated after the appeal has been filed**

After the filing of an appeal with the Appeals Council, if an amicable resolution of the matter is being pursued, the time limits for submission of material may be extended.

**D. Filing an appeal or request for suspension of action**

An appeal may be filed in accordance with:

when the appeal is against a Director's decision on disciplinary action;

Filing a request for suspension of action

A request for suspension of action shall be filed with the Secretary of the Appeals Council.

**E. The statement of appeal**

1. Each statement of appeal shall include:
  - (a) the name of the appellant and his or her present or former status with the Office;
  - (b) an identification, description and date of the administrative decision being contested and the terms of appointment and/or the provisions of the GNLU Regulations or Directives issued in accordance therewith which have not been observed;
  - (c) in the case of a request for administrative review, a statement of when it was submitted; copies of the request and the reply of the respondent, if any, shall be annexed;
  - (d) a clear statement of the relevant facts (in chronological order whenever appropriate);
  - (e) a description of the specific remedy requested;
  - (f) the name of the representative, if any, of the appellant (any subsequent selection or change of representative must be immediately communicated to the Appeals Council by the appellant);
  - (g) an index of all annexed documents (any document referred to in the text of the statement of appeal shall be annexed in full and numbered);
  - (h) a request for an oral hearing, if desired;
  - (i) the signature of the appellant or of his/her representative, and the date of submission.
2. Failure by the appellant to comply with this rule may lead to the statement of appeal being treated as incomplete (see rule III.F below).

**F. Incomplete statement of appeal**

An incomplete statement of appeal will be accepted by the panel for the purpose of establishing the date of filing of the appeal. The Secretary of the Appeals Council will, upon receipt of an incomplete statement, request in writing that the appellant provide the panel, within one month, with a full statement of appeal. If the appellant, without explanation, fails to submit a full statement of appeal within one

month, the appeal shall be deemed to have been abandoned (see rule III.N.3 below), and shall be removed from the calendar.

**G. Receivability of appeals**

An appeal shall not be receivable unless the time-limits specified as above have been complied with or have been waived, in exceptional circumstances, by the Appeals Council.

**H. Waiver of time limits for late filing**

1. The panel shall decide, at its own discretion, whether to consider receivability as a preliminary issue or in conjunction with the whole appeal. In either situation the panel may request statements, supporting evidence and comments relating specifically to this issue and shall decide, on the basis thereof, whether "exceptional circumstances" justify a waiver of the applicable time limits, bearing in mind that the onus of proving exceptional circumstances lies with the appellant.
2. Conciliation proceedings initiated during the review stage, but not completed within the time limit specified for review, shall constitute a valid ground for the panel's waiver of time limits for the filing of an appeal.

**I. "Suspension of action" procedure**

Neither a request for administrative review under paragraph (a) above nor the filing of an appeal below shall have the effect of suspending Appeals action on the contested decision.

- (i) However, the staff member concerned may request a suspension of Appeals action on such a decision by writing to the Secretary of the Appeals Council under paragraph (a) below. The request shall set forth the relevant facts and indicate how implementation would directly and irreparably injure the staff member's rights.
- (ii) Upon receipt of such a request, the Appeals Council shall be promptly constituted, and shall act expeditiously. If it, after considering the views of both parties, determines that the decision has not been implemented and that its implementation would result in irreparable injury to the appellant, it may recommend to the Director the suspension of action on that decision until the time-limits specified in subparagraph (a) (i) or (ii) have passed without an appeal having been filed or if an appeal is filed, until a decision on the appeal is taken.

The Director decision on such a recommendation is not subject to appeal.

**J. Written submissions by the parties**

- (i) Each written submission and document shall be presented to the panel through the Secretary of the Appeals Council. All such material which is presented to the panel, either prior to or during its consideration of the case, shall be submitted as an original (where available) with five copies. Each copy shall be a true and complete copy of the original. The original and the required copies shall be submitted to the Secretary of the Appeals Council for distribution to the other party, his/her representative, and to panel members.
- (ii) Submissions to the panel will normally be in English, the working language of the Appeals Council. The Chairperson may, in the interests of justice, authorise an appellant to make submissions in other languages, should the circumstances justify this. Any document not drawn up in English which is

submitted in connection with an appeal shall be accompanied by a certified translation into English.

- (iii) A copy of each written submission and document furnished to the panel in connection with an appeal will be communicated by the Appeals Council Office, upon receipt, to the other party. If a party or witness refuses to produce a document on the grounds of confidentiality, the panel may demand its production for the limited purpose of determining whether its relevance overrides its confidentiality, without first transmitting a copy to the other party. Should it be so determined by the panel, a copy of such a document, or only the relevant parts thereof, may be transmitted to the other party.
- (iv) If defects in the written submissions, i.e. erroneous dates or typographical errors, do not affect the substance of the appeal, the Appeals Council Office, with notification to the submitting party, may make the necessary corrections.

#### **K. Additional submissions**

Proceedings before the Appeals Council shall normally be limited to the original written presentation of the case, together with brief statements and rebuttals, which may be made orally or in writing.

- (i) In addition to the original written presentation of the case, the panel may accept additional written or oral submissions from the parties. The panel may also request the production of additional written material or oral statements. The time limit for written submissions by either party shall generally be no more than two weeks.
- (ii) Additional written submissions shall be limited, in order to avoid the repetition of previously presented information, and shall be made in accordance with the stipulated time limits.
- (iii) Additional written submissions and documents shall also conform to rules III.J.1 and III.J.2 above.

#### **L. Written interrogatories**

The panel may require any necessary information from any party, witness or expert by written interrogatory (oral testimony and participation in a hearing is discussed in rules IV.G.1 - IV.G.4 below). The panel shall have the discretion to decide whether it will seek such material through the Secretary to the Appeals Council or whether it will request one of the parties to submit it to the panel within a stated time limit. Copies of the questions and answers constituting the written interrogatory and of any reply thereto shall be provided to the parties, each of whom shall have the opportunity to comment thereon.

#### **M. Extension of time limits for submission of supplementary material**

- (i) Time limits for the submission of supplementary material may be extended by the panel upon a written request for an extension before the time limit has expired. Any such request shall indicate the reasons for the delay and the time required for the completion of the submission. Notice of any such request shall be given to the other party.
- (ii) Further extensions of time limits for the submission of additional written material may be granted where the interest of justice so warrants.
- (iii) Only in exceptional circumstances will the consideration of a case be delayed for an extended period of time for the purpose of receiving written submissions. Such an extension will be granted only upon it being shown that:
  - a) such written submissions are absolutely essential and gross injustice would otherwise result, or
  - b) the interest of justice would not otherwise be served, or

- c) the information cannot be presented orally.

**N. Abandonment of an appeal**

- (i) It is the obligation of an appellant who intends to pursue his/her appeal to keep the panel informed of any change of address or telephone number.
- (ii) If the panel makes two successive attempts to communicate with the appellant at the last known address and receives no response within a reasonable time, or if a communication to that address is returned marked "addressee unknown", the Chairperson may deem the appeal to have been abandoned.
- (iii) If an appellant has submitted an incomplete appeal, but has failed to submit a full statement of appeal within the time limit specified in rule III.F above, the appeal may be deemed to have been abandoned within a reasonable time after the above-mentioned time limit.
- (iv) An abandoned appeal may be restored upon adequate explanation. If the appeal was deemed abandoned because of failure by the appellant to submit a full statement of appeal, any such motion to restore a case must be accompanied by the full statement of appeal.

**O. Withdrawal of an appeal**

An appellant may withdraw his/her appeal at any time prior to being formally notified that the panel has submitted its report to the Director. Notice of the withdrawal of an appeal must be communicated to the Secretary of the Appeals Council in writing, and must be signed by either the appellant or his/her representative.

**P. Settlement of an appeal**

- (i) An appeal may be settled at any stage in the proceedings prior to notification to the appellant that the panel has submitted its report to the Director. Once the panel has begun its consideration of the case, the parties may, should they request this, be granted an adjournment of the proceedings for the purpose of conducting settlement negotiations. If a settlement has not been reached during that period, the panel will resume its consideration of the case.
- (ii) If a settlement is reached, the appellant or his/her representative shall submit a written statement to the panel that the parties have reached a settlement and are withdrawing the appeal.
- (iii) As settlement efforts are deemed to be without prejudice, anything associated with them shall be inadmissible as evidence and may not be referred to in the course of the panel's consideration of the appeal.

**5.0 CONSIDERATION OF THE APPEAL**

**A. Composition of the panel and notice to the parties**

- (i) No person who has assisted the Director in a conciliation procedure shall serve on a panel established to consider an appeal relating to the same case.
- (ii) The composition of the panel for hearing the appeal shall be notified to the parties in writing. As far as possible, the membership of the panel shall be maintained to the conclusion of the appeal.

**B. Disqualification of a panel member at request of either party**

The Director may, at the request of either party, disqualify the chairman or a member if, in the opinion of the Director, such action is warranted to ensure impartiality. He or she may also excuse the Chairman or a member from serving on the Appeals Council.

- (i) Any person disqualified or excused shall be replaced by an alternate. This replacement shall be made as mentioned above
- (ii) A request, by either party, for the disqualification of a member of the panel shall be made in writing within five working days of receipt of notice of the composition of the panel, and shall state the reason for requesting such an action. The decision on such requests shall be made by the Director.

**C. Meetings of the panel**

The panel may either meet in executive sessions or it may conduct hearings. At all such sessions and hearings, all members of the panel must be present. Alternates may be present at such sessions and hearings only in accordance with paragraph I.D of these rules.

**D. Legal counsel**

The services of legal counsel shall be provided to the Appeals Council and/or the panel upon request.

**E. Request for hearing**

- (i) Either party may request a hearing. Such a request must be in writing and shall be submitted, at the latest, upon receipt of notice of the composition of the panel. The panel shall decide whether or not to grant such a request. It may also decide, on its own initiative, whether a hearing is necessary or not.
- (ii) In determining whether a hearing is required, the panel will consider whether the written submissions have adequately covered the issues involved, whether the testimony of the parties, witnesses or experts would substantially add to the material being considered, and whether relevant and necessary additional information could be adduced in the course of a hearing.

**F. Notice of hearing**

If a hearing is scheduled, notice of its date, time and place shall be formally communicated to the parties by the Secretary of the Appeals Council. For the continuation of a hearing, oral notice may be given followed by written confirmation.

**G. Presentation at hearing**

- (i) At a hearing (either on a preliminary issue or on the merits of the appeal), both parties must be invited to attend and participate.
- (ii) A staff member may arrange to have his or her appeal presented to the Appeals Council on his or her behalf by another staff member. The staff member may not, however, be represented before the Appeals Council by any other person.
- (iii) At the hearing, in order to avoid the repetition of material contained in the written submissions, except for an opening or closing presentation normally limited to ten minutes, the parties shall be limited to the presentation of new material or the response to new material submitted by the other party, or to questions from the panel. The panel may determine the relevance of new material and may limit oral presentations accordingly.

A hearing may include presentations by the parties, and testimony by witnesses or experts (see rule IV.G.4 below). The panel may call witnesses and experts on its own initiative. The panel may also permit either of the parties to call



witnesses and experts after they have shown that the testimony of such witnesses and experts would be relevant.

- (iv) The Appeals Council shall have the authority to call members of the University who may be able to provide information concerning the issues before it and shall have access to all documents pertinent to the case. Notwithstanding the preceding sentence, should the Appeals Council wish to have information or documents relating to the proceedings of the Heads of Departments, it shall request such information or documents from the Chairman thereof, who shall decide on the Appeals Council's request, taking into account the interests of confidentiality. This decision of the Chairman is not subject to appeal. The Chairman of the Appeals Council shall determine which documents are to be transmitted to all members of the Appeals Council and the parties.
- (v) The normal sequence of the hearing is as follows:
  - a) the hearing is convened by the Chairperson;
  - b) the appellant or the appellant's representative makes an opening statement;
  - c) the respondent or the respondent's representative makes an opening statement;
  - d) the members of the panel may ask questions at any point during or after the presentations;
  - e) witnesses or experts may be questioned by the members of the panel and by the parties;
  - f) closing statements may be made, first by the respondent, in order to permit the appellant or his/her representative to have the opportunity to speak last.

#### **H. The report of the panel**

Within one month of the date on which the consideration of an appeal has been completed, the Appeals Council shall, by majority vote, adopt and submit a report to the Director. The report shall be considered as constituting a record of the proceedings in the appeal and may include a summary of the matter as well as all recommendations that the Appeals Council considers appropriate. Votes on the recommendations shall be recorded and any member of the Appeals Council may have his or her dissenting opinion included in the report.

#### **I. Final decision**

The final decision on the appeal will normally be taken by the Director within one month after the Appeals Council has forwarded its report, and shall be communicated to the staff member, together with a copy of the Appeals Council's report. The Director's decision and a copy of the Appeals Council's report shall also be transmitted to a designated officer of the Staff Representative Body, unless the staff member objects.