

**TITLE:** **RESIDENCE APPEALS**  
(Relates to EL-7: Treatment of Students)  
(Relates to EL-18: Participation of Students)

**EFFECTIVE DATE:** March 1, 2004

**PRACTICE:**

Tenants have the right to question, receive explanations for and seek to change decisions made by administrators and staff of Red Deer College Residence.

The Residence appeal process will not be used for evictions covered by the Residential Tenancies Act (Family Townhouse Tenants). The appeal process contained within the Residential Tenancies act will apply for these evictions.

### INFORMAL APPEALS

Prior to launching a formal appeal, it is strongly recommended that the tenant communicates with the Residence Manager (or designate) concerning the disputed decision. The tenant must express their intention to access the Informal Appeal process within three (3) business days of the date of the decision.

Both the tenant and the Residence Manager (or designate) have rights and responsibilities in the informal appeal process.

**Tenant Responsibilities:**

1. To inform the Residence Manager (or designate) that they are appealing the decision at the informal level.
2. To identify their rationale for questioning the decision.
3. To identify the outcome they are seeking.
4. To listen and consider the explanation and context given for the decision.
5. To identify to the Residence Manager (or designate) that they are proceeding to the formal appeal.
6. To respect the rights of college staff to make decisions.
7. To present information in a rational, respectful manner.

**Tenant Rights:**

1. To be treated with respect.
2. To question decisions.
3. To receive an explanation of the decision from the Residence Manager (or designate).
4. To seek to have the decision changed by presenting their case to the Residence Manager (or designate)

5. To seek assistance in preparing and presenting his/her case to the employee (e.g., a College Counselor, Students' Association representative).

#### Residence Manager (or designate) Responsibilities:

1. To make decisions which are equitable for all tenants and within Residence and College policies and procedures.
2. To provide an explanation and context for the decision.
3. To listen and give consideration to the case being presented by the tenant.
4. To identify options for the student including the use of a third party mediator and the formal appeal process.
5. To respect the tenants' right to question decisions.
6. To treat tenants with respect.

#### Residence Manager (or designate) Rights:

1. To be treated with respect.
2. To stand by decisions.
3. To reverse their original decision or to modify their original decision.
4. To know the tenant is using the informal appeal process.
5. To know if the student is proceeding to the formal level.

### **THIRD PARTY MEDIATION**

If the Residence Manager (or designate) and the tenant cannot resolve the dispute at the informal stage, a third party mediator may be brought in to help resolve the dispute. A mediator can be accessed by contacting the Health Centre. The tenant must express their interest in bringing in a mediator within three (3) business days of the date of the decision. Both parties must agree to the process and if either side objects to the mediation, the dispute proceeds to the formal appeal process.

The role of a third party mediator is to help resolve the dispute, not to make a decision. This means that the mediator helps each person listen and hear the other person's points and sometimes asks questions to help each person clarify the discussion.

The mediator is someone who is agreeable to both the tenant and the Residence Manager (or designate). The mediator must be someone who is not involved in the decision. The mediator should be a person who understands the role of a mediator and has superior communication skills.

If the informal discussion does not come to a satisfactory resolution, the student may file for a formal appeal.

## FORMAL DISCIPLINARY APPEALS

Step 1: The tenant must appeal (in writing) to the Vice President of College Services within three (3) business days of the decision from either the informal appeal or the third party mediation process. A designate must be used if a conflict of interest exists with the Vice President of College Services.

Appeals may only be made for the following reasons:

1. The sanction was inappropriate for the violation based on the information contained within the Residence Handbook, Family Handbook and/or the Residence Rental Agreement.
  2. There was a serious procedural error that was prejudicial to the tenant
- OR**
3. There is new evidence that was not available at the time of the decision that has since become available.

The letter of appeal should include:

- (1) what decision is being appealed,
- (2) the grounds on which the decision is disputed,
- (3) attempts to resolve the dispute to date, and
- (4) the outcome desired.

If the appeal is based on new evidence, the appeal must clearly describe the new evidence.

Step 2: If the Vice President of College Services feels that there have not been adequate attempts to resolve the concern informally, the Vice President of College Services shall encourage the tenant and the Residence Manager (or designate) to attempt to resolve the concern informally. If the Vice President of College Services does not feel that the letter of appeal includes the grounds on which the appeal is being disputed, he has the authority to reject the appeal in which case the original decision would stand. If the Vice President of College Services feels that adequate attempts have been made to resolve the concern informally and that the reason for the appeal is outlined in the letter of appeal and may be valid, the Appeal shall proceed.

Step 3: The Office of the Vice President of College Services shall notify the tenant and the Residence Manager (or designate) that a formal appeal has been filed within two business days.

Step 4: The Vice President of College Services shall form an ad hoc Appeal Board consisting of the Vice President of College Services (or designate) as Chair (a designate must be used if a conflict of interest exists with the Vice President of College Services), one full time staff member representing Student Services,

and one student. It is the responsibility of each committee member to ensure that a fair appeal process occurs by declaring any factors or prior relationships affecting their objectivity. If a conflict of interest is declared, it is the responsibility of the individual declaring the conflict to notify the Chair of the committee of such conflict, who will find an appropriate replacement. The Board will meet to hear the appeal within three business days of the matter being brought forward.

Step 5: The tenant and the Residence Manager (or designate) will be asked to identify any witnesses they would like to be present at the hearing to present evidence. Both the tenant and the Residence Manager (or designate) will be informed of the witnesses to be present. If the confidentiality of a witness presenting evidence must be preserved, the Appeal Board may elect to interview that person privately, or review a confidential written statement. The Chairperson will then summarize this evidence (without mentioning the name of the witness) and will verbally share it with the tenant and the Residence Manager (or designate) to allow them to respond, before the Board makes its final decision.

Step 6: The Appeal Board shall invite the tenant and the Residence Manager (or designate) to attend the hearing. Both the tenant and the Residence Manager (or designate) will be allowed to have a support person at the hearing. The support person should be identified to the committee chair prior to the hearing and he/she will be a silent participant during the hearing. However, either the student or Residence Manager (or designate) may request of the Chair an opportunity to caucus with the support person outside the meeting room a maximum of three times each.

Step 7: During the hearing:

- a. The Chair will introduce all participants and clarify the process to be followed.
- b. The Residence Manager (or designate) will present the evidence related to the incident which resulted in the disciplinary action. Witnesses will be brought in as requested to provide supportive information. Witnesses will only be present for the time of their presentation. The tenant may not engage in rebuttal at this point.
- c. The Board may ask questions of the Residence Manager (or designate) and witnesses following the presentation by each.
- d. The tenant will present his/her case. Witnesses will be brought in as requested to provide supportive information. Witnesses will only be present at the time of their presentation. (The Residence Manager [or designate] may not engage in rebuttal at this point).
- e. The Board may ask questions of the tenant and witnesses following the presentation by each.
- f. The Residence Manager (or designate) may make rebuttal/summary statements. The tenant has the last word.
- g. The Board deliberates in private until a majority decision is reached. The Appeal Board can only consider the following:
  - Was the sanction appropriate for the violation based on the information contained within the Residence Handbook, Family Handbook and/or the Residence Rental Agreement?

- Was there a serious procedural error that was prejudicial to the student?
- Was there new evidence that was not available at the time of the decision that has since become available and therefore needs to be considered?

The Appeal Board may:

- uphold the decision being appealed
- overturn the decision being appealed
- alter the sanction **OR**
- refer the appeal back to the Residence Manager (or designate) requesting additional information and/or witnesses.

**The decision is final and binding.**

- h. The Vice President of College Services shall communicate, in writing, the decision of the Appeal Board to the tenant and the Decision Maker within three working days of the Appeal.

If the appellant fails to attend the scheduled hearing, the hearing will continue in the absence of the appellant.

**FORMAL FEE APPEALS**

Students wishing to make a Residence fee appeal should submit the appeal and appropriate documentation to the Vice President of College Services who shall conduct a review of the appeal as considered appropriate under the circumstances. The appeal should include:

- (1) what decision is being appealed,
- (2) the grounds on which the decision is disputed,
- (3) attempts to resolve the dispute to date, and
- (4) the outcome desired.

The Vice President of College Services shall communicate the outcome of the review to the tenant, in writing, within 3 days of receipt of the appeal. The decision of the Vice President of College Services shall be final.

The use of the appeal processes does not prevent tenants from exercising their right to pursue the matter in a court of law.

<b>ACCOUNTABILITY:</b>	Vice President of College Services
<b>RESPONSIBILITY:</b>	Residence Manager
<b>Consultation for Review:</b>	College Lawyer, Tenant's Association Executive
<b>Practice Review Date:</b>	March 1, 2005
<b>Associated Policy:</b>	Residence Discipline and Dishonesty Residence Appeals