

Complete Policy Title:
**Faculty Association Observers at Appeal
Tribunal Hearings**

Policy Number (if applicable):
SPS D2

Approved by:
**Senate
Board of Governors**

Date of Most Recent Approval:
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December 15, 2011**

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Supersedes/Amends Policy dated:
April 22, 1996 (SPS 21)

Responsible Executive:
Provost and Vice-President (Academic)

Enquiries:
[University Secretariat](#)

***DISCLAIMER:** If there is a Discrepancy between this electronic policy and the written copy held by the policy owner, the written copy prevails*

1. As described in Section IV, clause 8, of the McMaster University Revised Policy and Regulations with Respect to Academic Appointment, Tenure and Promotion (referred to below as the "Tenure and Promotion Policy"), the Faculty Association is permitted, subject to the consent of the Appellant, to send an Observer to any Appeal Hearing.
2. The function of the Observer is to allow the Association to monitor the workings of the appeal procedures of which it is joint author.
3. The University Secretary shall send a copy of these guidelines to the Appellant when an Appeal Hearing is initiated and shall ask the Appellant in writing whether the Appellant consents (a) to the presence of a Faculty Association observer, and (b) if so, to all the documentation being provided to the Observer. The University Secretary shall notify the Faculty Association of the Appellant's response. If the Appellant consents to the presence of an Observer, the Association shall inform the faculty member and the University Secretary who the Observer will be.
4. The Observer does not attend on behalf of the Appellant or the Respondent. The Observer nominated by the Faculty Association should be an active or retired member of the Association and should be at "arm's length" from the case. The Observer should avoid interacting with either of the parties. At no time should the Observer engage the parties or the tribunal in any discussions regarding the matter under appeal.

5. The Observer must be familiar with the most recent edition of the Tenure, and Promotion Policy, and particularly with Section IV on Appeal Procedures and with these guidelines. The Observer should carry a copy of these documents to the Hearing.
6. Seating arrangements at the Hearing are at the discretion of the Chair of the Appeal Tribunal. The Observer may not speak without an invitation from the Chair.
7. The Observer shall be provided with all the documentation available to the appealing faculty member whose case is being observed, subject to the consent of the Appellant. This documentation shall be considered confidential and must be surrendered to the Chair at the close of the appeal hearings.
8. The Observer is not entitled to be present when the Appeal Tribunal members recess for discussion among themselves.
9. The Observer will receive a confidential copy of the document in which the Appeal Tribunal reports its decision to Senate.
10. After the hearing is over the Observer should ask the parties separately, and outside of the presence of the Appeal Tribunal, if they were satisfied with the procedures followed and whether they wish to make any comment on them.
11. The Observer shall then write a **report** of the proceedings for the President of the Faculty Association using the ATTACHED FORM (available from the University Secretariat). The Observer shall limit comment to **procedural matters** and take care not to quote either from confidential documents or confidential utterances, unless it is absolutely necessary to do so to make a point concerning procedural issues. The Observer's report should include a statement of what proportion of the Hearing the Observer attended and a description of any comments on, or expressions of dissatisfaction with, the procedures by either party. The Observer's report should not be confidential, except that any quotations from confidential documents or confidential utterances should be confined to a confidential appendix to which only the Presidents of the University and of the Association should have access. If major procedural irregularities are noted by the Observer, the President of the Faculty Association should inform the President of the University.