

Rules and Regulations Committee Meeting
January 17, 2014
Meeting Minutes

- I. Attendance
 - a. Voting members present: Jerry Brown, Melinda Grant, Laura Hammons, Katie Hawks, Venesa Heidick, Merna Jacobsen, Allison Krenzien, Dave Parrott, Maxine Harrington, Gracie Wood, Rita Moyes, Fernando Sosa
 - b. Nonvoting members present: Tim Powers, Todd Sutherland, Cindy Smith
- II. The meeting was called to order at 3:05 pm by Dave Parrott.
- III. Approval of minutes from meeting on September 20, 2013.
Motion—M. Grant; Second—V. Heidick; Approved—Unanimously
- IV. Old Business - None
- V. New Business

Rule 57 (see attached): Dr. Parrott and Mr. Brown explained that proposed changes will bring Rule 57 in line with best practices, making it easier for students to follow and provide guidance to panels hearing cases. Proposed rule has added definitions which will provide additional clarity. Discussion on addition of wording to section 57.4.1.1. Committee decided to accept the rule as written with no changes.
Motion – V. Heidick; Second – M. Grant; Approved – Unanimously
Effective – upon approval of President

Rule 7.3 – Tabled until reviewed by Law School for their edits.
- VI. Meeting adjourned at 4:10 pm

EXISTING RULE

(a) 57. Undergraduate Academic Appeals Panel

(Revised: 2008)

The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.

Scope

The Undergraduate Academic Appeals Panel will hear appeals involving suspension or blocks for scholastic deficiency and disputes over an unauthorized absence determination or a final course grade, except for a grade assigned by the instructor of a class partially or entirely on the basis of scholastic dishonesty. Appeals will be heard when the student alleges that an arbitrary, capricious or prejudiced evaluation has occurred. Appeals regarding college requirements will not be heard. Questions and appeals involving scholastic dishonesty are to be directed to the Disciplinary Appeals Panel.

Membership

The Undergraduate Academic Appeals Panel includes the chair, six faculty members and three faculty alternates, five undergraduate student members and two undergraduate student alternates. A quorum consists of three faculty members and two students. Representatives from the Academic Operations Committee (AOC) and the Undergraduate Student Ombudsperson will be available while the panel is in session to serve as resource persons.

Procedures

57.1 Before a hearing can be scheduled before the panel, the student must have complied with the procedures described below.

57.1.1 Suspension or Blocked Enrollment for Academic Deficiency

The student shall discuss an academic suspension or blocked enrollment with their academic Dean or designee or his or her designee. If no change in status results from the discussion and the rationale for suspension or blocked enrollment still seems arbitrary, capricious or prejudiced to the student, the student may appeal to the Undergraduate Academic Appeals Panel. The panel will have a regularly scheduled meeting to deal with suspensions during the first week of classes in the fall and spring semesters and during the first two days of the first summer term. To assure consideration of their appeal, students are urged to initiate the appeals process immediately upon suspension or being blocked from enrollment. Appeals must be filed no later than the week immediately preceding the start of the semester. The Undergraduate Student Ombudsperson who independently and impartially reviews student grievances is an additional resource available to students.

57.1.2 Dispute Over Final Course Grade or Unauthorized Absences A student wishing to appeal an unauthorized absence or a final grade makes the initial appeal to the instructor or with the head of the department offering the course if the instructor is no longer with the university. If no resolution is possible, the student may appeal to the head of the department that offered the course and then, if necessary, to the Dean or designee of the college in which the course was offered. If at this point the problem has not been resolved to the satisfaction of the student, he or she may file an appeal with the chair of the appropriate appeals panel. If the final course grade being appealed is based partially or entirely on scholastic dishonesty, the appeal is made to the [Disciplinary Appeals Panel](#); all other grade appeals are made to the Undergraduate Academic Appeals Panel. The Undergraduate Academic Appeals Panel will

~~act at called meetings to hear grade appeals, unauthorized absence appeals and unusual academic suspension appeals.~~

~~57.2 A student desiring a hearing before the Undergraduate Academic Appeals Panel must file a written request for an appeal hearing with the chair. Any academic appeal must be filed within one semester (long term) after the decision being appealed was made. In the case of scheduled panel meetings, appeals must be filed at least five working days before the scheduled dates. At the time the request for a hearing is made, the student should arrange for a preliminary interview with the chair and complete a preliminary questionnaire. The act of filing the questionnaire is construed as authorizing all panel members to have full access to all records, including academic, civil and medical records that may have a bearing on deliberations.~~

~~57.3 The written request for an appeal hearing should be accompanied by all evidence and supporting documents that will be introduced at the hearing, including short statements summarizing the testimony that may be presented by witnesses. The request for appeal should also be accompanied by a statement outlining the student's justification for the appeal.~~

~~57.4 The chair, after receiving all the required documentation and materials, shall set the hearing for the earliest possible date and inform the student of the time and place for the hearing. The failure of the student to appear without justifiable cause shall terminate the right to appeal. For a suspension or blocked enrollment appeal hearing, the concerned Dean or designee or his or her designee shall be present if considered appropriate by the chair. For grade and/or absence appeal hearing, the instructor and/or his or her department head shall be present if deemed necessary by the chair.~~

~~57.5 The chair shall sit as a hearing officer and shall not take part in the vote or otherwise participate in the deliberations of the panel, except to cast a tie breaking vote. It shall be the duty of the chair to rule on procedural matters and the admissibility of evidence. The chair may deny admission of any evidence that did not accompany the student's request for a hearing.~~

~~57.6 The burden of proof shall be upon the student to prove his or her case by a preponderance of evidence.~~

~~57.7 The student shall have the right to be represented by counsel of his or her own choosing, to present such witnesses and documentary evidence as may be pertinent and to cross-examine witnesses.~~

~~57.8 All parties shall be afforded the opportunity for reasonable oral argument.~~

~~57.9 Upon request, sufficiently in advance by either party, the chair shall cause the testimony presented at the hearing to be recorded. A copy of the recording may be obtained from the chair at the expense of the requesting party.~~

~~57.10 Immediately after hearing an appeal, the panel will go into closed session to deliberate. The student will be informed of the panel's decision orally at the conclusion of the deliberations. A formal letter to all interested parties, with a copy to the president, will confirm the panel's decision.~~

RULE WITH PROPOSED CHANGES

57. Undergraduate Academic Appeals Panel

The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.

57.1 Scope. The Undergraduate Academic Appeals Panel (UAAP) will hear appeals stemming from adverse academic decisions involving: a) disputes over an unauthorized absence determination, b) disputes over final course grades, c) dismissal from a college or major for scholastic deficiency, or d) suspension from the university for scholastic deficiency.

The UAAP does not hear appeals involving:

57.1.1 Scholastic Dishonesty. Actions stemming from scholastic dishonesty, and any appeal of that action, will be dealt with through the Aggie Honor System Office.

57.1.2 Discrimination. Student Rule 45 (Discrimination and Discrimination Appeals) should be used for grievances concerning race, color, national or ethnic origin, religion, age, sexual orientation, or veteran status.

57.1.3 Sexual Harassment. Student Rule 47 (Sexual Harassment) should be used for grievances concerning sexual harassment when the alleged offender is a current student or employee of the university.

57.1.4 Disability Accommodations in Academic Programs. Student Rule 46 (Disability Accommodations in Academic Programs) should be used for grievances concerning disability accommodations in academic programs.

57.1.5 Extenuating Circumstances. Students seeking academic accommodation for extenuating circumstances should consult with their dean (or designee) as described in Student Rules 10 (Grading) and 17 (Withdrawal Procedures).

57.1.6 Eligibility. The eligibility to obtain a hearing before the UAAP means that the student seeking a hearing has complied with all prerequisites as set forth in this rule.

57.2 Definitions. In this rule, the following words have the following definitions and no other:

“Adverse decision” means a decision by a faculty member or administrator that negatively impacts the student and for which the student wishes to pursue a grievance under this rule.

“Arbitrary” means no reasonable factual basis for reaching the conclusion or taking the action.

“Assertion” means a contention or theory about the existence of some state of being. An assertion is established or disproved by evidence.

“Capricious” means unpredictable and subject to whim.

“Credible” means believable by a reasonable person.

“Evidence” means information by which an alleged fact is established or disproved. Evidence establishes or disproves an assertion.

“Faculty” means an individual holding a position in which the primary title includes the word “professor,” “instructor,” “lecturer,” or “librarian” regardless of other rank of appointment qualifiers associated with the title. Appointments with the word “dean” or “provost” with or without a specified faculty rank higher than assistant professor are normally tenured faculty appointments.

“Final Grade” means a grade assigned by the instructor at the end of an academic term as defined in Student Rule 10 (Grading). This does not include other grade designations of I, X, Q, W, and NG.

“May” means a condition that is not required to be met; it is discretionary. Contrast “shall.”

“Parties” means the student or the respondent.

“Prejudicial” means irrational attitude of hostility directed against an individual. This does not include hostility on the basis of race, color, national or ethnic origin, religion, sex, disability, age, sexual orientation, or veteran status.

“Preponderance of evidence” means the greater weight of credible evidence submitted in the hearing. For a fact to be established by a preponderance of the evidence the UAAP must find the fact is more likely true than not true.

“Respondent” means the faculty member, instructor, or administrator that made the decision.

“Shall” means a condition that must be met. Contrast “may.”

“Some credible evidence” means a quantity of evidence that is believable by a reasonable person.

“Student” means an individual undergraduate student enrolled at the university that is the subject of an adverse academic decision.

“Unauthorized absence” means an absence from a class or required class activity that is not considered excused as defined in Student Rule 7 (Attendance).

57.3 Membership. The pool of faculty and undergraduate students from which a UAAP will be formed shall be appointed by the President or designee. A quorum consists of a faculty chair, three (3) faculty members, and two (2) undergraduate students. See section 57.5.5.1 regarding the voting rights of the chair.

57.4 Preliminary Resolution Procedures. To be eligible for a hearing before the UAAP, the student shall first complete in its entirety the applicable informal resolution procedure described below.

57.4.1 Preliminary Resolution Procedure—Disputes Over an Unauthorized Absence Determination or Disputes over Final Grades.

57.4.1.1 Respondent Conference. The student shall schedule and attend a conference (in-person or by telephone) with the respondent, informing the respondent of his/her concerns about the adverse decision. The respondent must fully inform the student about the grounds for and process used in reaching the decision. The aim of this conference is for: (1) the student to communicate how and why the decision is arbitrary, capricious, or prejudicial; (2) the respondent to communicate how and why the decision is not arbitrary, capricious, or prejudicial; and (3) the respondent to correct errors, if any, in the decision. The respondent shall provide a written response to the student within ten (10) university business days. This step does not apply to students that have already completed the process set forth in Student Rule 48 (Grade Disputes) or 49 (Unexcused Absences).

57.4.1.2 Department Review. If the student does not receive a satisfactory outcome at the conclusion of the respondent conference, the student may seek review of the decision by the department head (or designee) of the department offering the course. The department head (or designee) shall provide a written response to the student within ten (10) university business days. This step does not apply to students that have already completed the process set forth in Student Rule 48 (Grade Disputes) or 49 (Unexcused Absences).

57.4.1.3 College Review. If the student does not receive a satisfactory outcome at the conclusion of the department review, the student may seek review of the decision by the dean (or designee) of the college in which the department offering the course resides. The dean (or designee) shall provide a written response to the student within ten (10) university business days. This step does not apply to students that have already completed the process set forth in Student Rule 48 (Grade Disputes) or 49 (Unexcused Absences).

57.4.2 Preliminary Resolution Procedure—Dismissal from a College or Major for Scholastic Deficiency.

57.4.2.1 College Review. The student shall request in writing a review by their dean (or designee) informing the dean (or designee) of his/her concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial. The dean (or designee) shall provide a response in writing to the student within ten (10) university business days addressing the grounds for and process used in reaching the decision; how and why the decision is not arbitrary, capricious, or prejudicial; and describing changes, if any, in the decision.

57.4.3 Preliminary Resolution Procedure—Suspension from the University for Scholastic Deficiency. No preliminary resolution procedure is required for appeals of suspension from the university for scholastic deficiency.

57.5 Formal Resolution Procedure. If, after completing all required steps in the applicable preliminary resolution procedures section, the student believes the outcome is unsatisfactory, the student may seek a hearing before the UAAP. To be eligible to receive a hearing before the UAAP, a student must complete and file an Undergraduate Academic Appeals Panel Hearing Request Form (this form is provided at the end of this rule) with the Office of Undergraduate Studies.

57.5.1 Chair Review. Upon receipt of an Undergraduate Academic Appeals Panel Hearing Request Form, the Office of Undergraduate Studies shall deliver a copy of the form and all attachments to the chair of the UAAP. The chair shall review the materials to determine if the student has provided some credible evidence that, if left uncontested in the UAAP hearing, convinces the chair that the UAAP could conclude the adverse decision was arbitrary, capricious, or prejudicial.

57.5.1.1 If the student has not provided some credible evidence that, if left uncontested in the UAAP hearing, convinces the chair that the UAAP could conclude the adverse decision was arbitrary, capricious, or prejudicial, the chair shall notify the student and Office of Undergraduate Studies in writing that the student's request for a UAAP hearing is rejected. The chair's decision is final.

57.5.1.2 If the student has provided some credible evidence that, if left uncontested in the UAAP hearing, convinces the chair the UAAP could conclude the adverse decision was arbitrary, capricious, or prejudicial, the chair shall notify the student and Office of Undergraduate Studies in writing that the student's request for a UAAP hearing is granted and request scheduling of a hearing.

57.5.2 Pre-Hearing Procedures.

57.5.2.1 If the chair grants a hearing, he or she shall forward a copy of the student's Undergraduate Academic Appeals Panel Hearing Request Form and all attachments to the respondent and, as appropriate, the respondent's department head and dean (or designee).

57.5.2.2 The chair shall notify the student and respondent of the time, date, and location of the hearing. The hearing should not be scheduled less than five (5) university business days after the hearing request form and attachments are sent to the respondent. The notice of hearing should include a list of potential panel members. At the chair's discretion, if a potential panel member cannot be a fair and impartial panelist, the panel member may be removed.

57.5.2.3 The respondent shall submit to the chair and student a list of all witnesses to be called by the respondent. The respondent shall also provide to the chair and the student copies of all documents to be submitted for consideration by the UAAP. The witness list and documents shall be submitted no later than three (3) university business days prior to the hearing. The failure to meet this deadline may result in the witnesses and documents being excluded from the hearing.

57.5.2.4 If, after receiving the witness list and documents of the respondent, the student wants to add additional witnesses or documents to those already submitted with his or her hearing request form, the student shall submit to the chair and respondent the additional documents and witness names not less than two (2) university business days prior to the hearing. The failure to meet this deadline shall result in the witnesses and documents being excluded from the hearing unless the respondent agrees to waive the deadline or the chair decides the additional documents and witnesses will be allowed.

57.5.3 Appeal Hearing.

57.5.3.1 The chair shall assemble to hear the student's appeal a quorum of panelists. Prior to the hearing the panel may be briefed about the identity of the parties to the hearing (student and respondent), the general subject matter of the hearing, and the potential witnesses. However, the panel may not be given any documentary evidence or witnesses statements prior to the hearing. The panel must make its decision based solely on the evidence presented by the parties during the hearing. The panel members shall neither engage in any independent investigation outside of the hearing nor consider any evidence obtained outside of the hearing.

57.5.3.2 The hearing will be conducted in a manner conducive to ascertaining the facts of the case. The student and respondent shall be provided a reasonable opportunity to: (a) be present and hear all arguments and oral statements made to the panel during the hearing; (b) make arguments, present oral statements and written documents, and call witnesses to testify—so long as the presentation of material is relevant (as determined by the chair) to the stated grounds for the appeal; and (c) ask questions of the other party's witnesses.

57.5.3.3 Each party may be accompanied at the hearing by one advisor, who may be an attorney. Any student who is involved in the same fact pattern or who is not in good standing with the University is not eligible to serve as an advisor at UAAP hearings. An advisor may not represent the party, direct questions to the chair or panel, participate in the opening or closing statements, engage in argument, or directly question witnesses. The advisor's sole role is to provide advice and counsel to his or her party.

57.5.3.4 At any time, the chair or panel may consult with an appropriate university advisor, call or recall witnesses, or introduce matters and information it deems relevant to the appeal.

57.5.3.5 The chair may establish reasonable time limitations for the oral presentations of the parties.

57.5.3.6 The formal rules of evidence do not apply to UAAP proceedings. The proceedings of the appeal process shall be informal in nature and need not comply with the formal processes associated with the criminal and civil courts.

57.5.3.7 A witness that is not a party may not be allowed to attend the hearing before he or she testifies. Hearings will be closed to the public

57.5.3.8 In hearings involving more than one student, at the sole discretion of the chair, a single hearing may be scheduled for all of the students. If any one of the students requests a separate hearing or if the chair determines it is in the best interest of the students, separate hearings may be held. When collective hearings are held, individual findings, decisions, and recommendations will be entered by the UAAP.

57.5.3.9 A record of the hearing (e.g., by audio recording, video recording, or scribe) will be made at the expense of the university. Upon receipt by the chair of a written request, the student may obtain a copy of the record by paying the cost of reproduction or transcription.

57.5.3.10 The chair may dismiss anyone from the hearing, including parties or advisors, whose conduct is inappropriate or disruptive to the hearing process.

57.5.3.11 The student has the burden of proof to demonstrate by a preponderance of credible evidence that the evaluation of the student's performance was arbitrary, capricious, or prejudicial.

57.5.4 Appeal Hearing-Order of the Proceedings.

57.7.4.1 The chair will begin the hearing with opening remarks. The chair will summarize the issues, describe the role of the UAAP, and explain the procedures to be followed. The chair will then ask individuals in the room to identify themselves for the record.

57.5.4.2 Unless otherwise determined by the chair, the order of presentation will be as follows, with the allocation of time for each segment to be determined by the chair in advance of the hearing:

- (b) Opening statement by the student.
- (c) Opening statement by the respondent.
- (d) Student presents evidence (documents and witnesses), with opportunity for questioning by the respondent and panel members.
- (e) Respondent presents evidence (documents and witnesses), with opportunity for questioning by the student and panel members.
- (f) Recess for closing statement preparation.
- (g) Closing statement by respondent.
- (h) Closing statement by student.
- (i) Chair declares hearing is concluded.

57.5.5 Post-Hearing Procedures.

57.5.5.1 Upon completion of the hearing the UAAP will meet in closed session for deliberations. If the process requires additional time the UAAP may suspend its deliberations and reconvene at a later day and time. A simple majority vote of the panel is required for findings, decisions, and recommendations. No panel member may abstain from voting. The chair is not a voting member of the UAAP unless for some unexpected reason his/her vote is required to break a tie.

57.5.5.2 The chair will prepare, and all members of the panel will sign, a written final decision to the student:

- (a) Attesting that a majority decision was reached;
- (b) Describing what the panel's decision was; and
- (c) Articulating the reasonable, factual basis upon which the UAAP reached its conclusion.

57.5.5.3 The chair will provide a copy of the final decision to the respondent, appropriate department head, appropriate dean, the Office of Undergraduate Studies, and the Executive Vice President for Academic Affairs and Provost.

57.5.5.4 The decision by the UAAP is the final decision of the university and is not appealable to any university or system person or entity.

57.6 Deadlines.

57.6.1. Deadlines—Disputes Over an Unauthorized Absence Determination. The student must initiate an informal resolution procedure no later than three (3) university business days of the instructor's decision.

Students requesting a hearing before the UAAP must file the hearing request form no later than ten (10) university business days after receiving the dean's (or designee's) letter referenced above and in section Student Rule 49 (Unexcused Absences) or the last day of regular classes during the academic term in which the adverse decision was made, whichever comes first.

57.6.2 Deadlines—Disputes Over Final Grades. The student must initiate an informal resolution procedure within ten (10) university business days of the day final grades are posted for the semester or summer session in which the disputed grade was earned. Students requesting a hearing before the UAAP must file the hearing request form no later than ten (10) university business days after receiving the dean's (or designee's) letter referenced above and in section Student Rule 48 (Grade Disputes) or the fifth day of the long semester (fall or spring) immediately following the academic term in which the adverse decision was made, whichever comes first.

57.6.3 Deadlines—Dismissal from a College or Major for Scholastic Deficiency. To facilitate continuous enrollment should an appeal result in the modification of an adverse decision, the student is urged to initiate the informal resolution process immediately after notification of dismissal. The student must initiate an informal resolution procedure within ten (10) university business days of notification of the dismissal. Students requesting a hearing before the UAAP must file the hearing request form no later than ten (10) university business days after receiving the dean's (or designee's) letter referenced above in section Student Rule 50 or five (5) university business days before the first day of the long semester (fall or spring) immediately following the academic term in which the adverse decision was made, whichever comes first.

57.6.4 Deadlines—Suspension from the University for Scholastic Deficiency. To facilitate continuous enrollment should an appeal result in the modification of an adverse decision, the student is urged to initiate the formal resolution process immediately after notification of suspension. The student must file a hearing request form no later than ten (10) university business days after notification of the suspension or five (5) university business days before the first day of the long semester (fall or spring) immediately following the academic term in which the adverse decision was made, whichever comes first.

57.7 The chair may reasonably deviate from the procedures and deadlines detailed in this rule if the particular facts and circumstances of the matter support the change. A reasonable deviation from the procedures shall not be grounds for overturning the outcome of the hearing process set forth in this rule.

JUSTIFICATION

A significant rewrite of Student Rule 57 Undergraduate Academic Appeals Panel is proposed to address three issues:

- The current rule does not adequately describe the grievance process for students subjected to university-level suspension
- Grievance processes described in the current rule do not parallel those described in Student Rule 59 Graduate Appeals Panel
- The current rule has been partially revised many times in the past and, as a result, has lost clarity and focus

The new language proposed for this rule was developed in consultation with System General Counsel and the Executive Vice President for Student Affairs and has been reviewed by the AOC deans.

PROPOSED BY

Name: Dr. Ann Kenimer

Phone: 979-845-3210

E-Mail Address: a-kenimer@tamu.edu

Department: Undergraduate Studies

Mail Stop: 2115