

## Student Rules and Regulations Committee

Approved by President

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(Additions to rules are bolded and underlined, deletions to rules are indicated by strikethrough)

### **PROPOSAL**

Please see attached rule for extensive changes

### **JUSTIFICATION**

Changes to bring rule current with HSC and Law School Merger. Also corrected title description listing Associate Provost for Graduate and Professional Studies.

### **PROPOSED BY**

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*Present Rule 59 with proposed changes are **bold** and underlined. Deletions are ~~struck~~.*

### **RULE 59 Graduate Appeals Panel 59. Graduate 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.*

59.1 Scope. The Graduate Appeals Panel (GAP) will hear appeal that involve actions against students stemming from: (a) **dismissal**, suspension, or blocks for scholastic deficiency (including failure to make sufficient progress in the student's academic program); and (b) appeals of disputes over final course grades, **unauthorized absence determination**, or evaluation of performance on examinations required by the department, intercollegiate faculty, or the graduate advisory committee. **Appeals will be heard only when the student alleges that an arbitrary, capricious or prejudiced evaluation has occurred.**

59.1.1 ~~Scholastic Dishonesty~~ **Academic Misconduct**. Actions stemming from ~~scholastic dishonesty~~ **academic misconduct**, and any appeal of that action, will be dealt with through the Aggie Honor System Office.

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

59.1.3 Sexual Harassment. Student Rule 47 should be used for grievances concerning sexual harassment when the alleged offender is an employee of the university.

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

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

59.2 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.

“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 GAP must find the fact is more likely true than not true.

“Respondent” means the faculty member (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 graduate **or professional** student **[not including first professional students – JD, MD, DDS, DVM, PharmD-whose appeals are addressed by the First Professional Appeal Panel]** enrolled at the university that is the subject of an adverse academic decision.

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59.3 Membership. The pool of faculty and graduate students that sit as a panel on a GAP shall be appointed by the President or designee. A GAP shall be comprised of the chair, four (4) graduate faculty members, three (3) graduate students, and two (2) graduate student alternates. A quorum consists of the chair, three (3) faculty members and two (2) graduate students.

59.4 Informal Resolution Procedures. To be eligible for a hearing before the GAP, a student shall first complete ~~each of the following~~ **applicable** informal resolution procedures **described below**.

59.4.1 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 should draft a letter describing the outcome of the conference and provide it to the student. This step does not apply to students that have already completed the process set forth in Student Rule 48 (**Grade Disputes**), **49 (Unexcused Absences)**, or **53 (Graduate Student Examination Evaluation Disputes)**.

59.4.2 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. This step does not apply to students that have already completed the process set forth in Student Rule 48 (**Grade Disputes**), **49 (Unexcused Absences)**, or **53 (Graduate Student Examination Evaluation Disputes)**.

59.4.3 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 department offering the course **or administering the degree program**. The dean (or designee) shall provide a written response to the student. This step does not apply to students that have already completed the process set forth in Student Rule 48(**Grade Disputes**), **49 (Unexcused Absences)**, or **53 (Graduate Student Examination Evaluation Disputes)**.

59.5 Formal Resolution Procedure. If, after completing all required steps in the informal resolution procedures section, the student has not received a satisfactory outcome, the student may seek a hearing before the GAP. To be eligible to receive a hearing before the GAP, a student must complete and file a Graduate Appeals Panel Hearing Request Form (~~this form is provided at the end of this rule~~) with the Associate ~~Vice President~~ **Provost** for Graduate **and Professional** Studies. The student must file the hearing request form no later than ten (10) calendar days after receiving the dean's (or designee's) letter referenced above in section Student Rule 48.5. **The written request for an appeal hearing should include a statement outlining the student's justification for the appeal. The written request should also include all evidence and supporting documents that will be introduced at the hearing, including short statements summarizing the testimony that may be presented by witnesses.**

59.5.1 Chair Review. Upon receipt of a Graduate Appeals Panel Hearing Request Form, the Associate ~~Vice President~~ **Provost** for Graduate **and Professional** Studies shall deliver a copy of the form and all attachments

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to the Chair of the GAP. The Chair shall review the materials to determine if the student has provided some credible evidence that, if left uncontested in the GAP hearing convinces the Chair that the GAP could conclude the evaluation of the student's performance was arbitrary or prejudicial.

59.5.1.1 If the student has not provided some credible evidence that, if left uncontested in the GAP hearing, convinces the Chair that the GAP could conclude the evaluation of the student's performance was arbitrary or prejudicial, the Chair shall notify the student and Associate ~~Vice President~~ **Provost** for Graduate **and Professional** Studies in writing that the student's request for a GAP hearing is rejected. The Chair's decision is final.

59.5.1.2 If the student has provided some credible evidence that, if left uncontested in the GAP hearing, convinces the Chair the GAP could conclude the evaluation of the student's performance was arbitrary or prejudicial, the chair shall notify the student and Associate ~~Vice President~~ **Provost** for Graduate **and Professional** Studies in writing that the student's request for a GAP hearing is granted and proceed to schedule the hearing.

### 59.5.2 Pre-Hearing Procedures.

59.5.2.1 If the Chair grants a hearing, he shall forward a copy of the student's Graduate Appeals Panel Hearing Request Form and all attachments to the Respondent and the Respondent's Department Head.

59.5.2.2 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 thirty (30) calendar 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 sole discretion, if a potential panel member cannot be a fair and impartial panelist, they may be removed.

59.5.2.3 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 GAP. The witness list and documents shall be submitted no later than fifteen (15) calendar days prior to the hearing. The failure to meet this deadline may result in the witnesses and documents being excluded from the hearing.

59.5.2.4 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/her hearing request form, the student shall submit to the Chair and Respondent the additional documents and witness names not less than ten (10) calendar 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.

### 59.5.3 Appeal Hearing.

59.5.3.1 The Chair shall assemble to hear the student's appeal a quorum of panelists. A quorum consists of the chair, three (3) faculty members and two (2) graduate students. 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

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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 not engage in any independent investigation outside of the hearing nor consider any evidence obtained outside of the hearing.

59.5.3.2 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.

59.5.3.3 Each party may be accompanied at the hearing by an advisor, who may be an attorney. An advisor may not represent party, direct questions to the Chair or panel, participate in the opening or closing statements, engage in argument, or directly question witnesses. The advisors sole role is to provide advice and counsel to his party.

59.5.3.4 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.

59.5.3.5 The Chair may establish reasonable time limitations for the oral presentations of the parties.

59.5.3.6 The formal rules of evidence do not apply to GAP proceedings. The Chair shall decide the admissibility of evidence and the schedule of the hearing.

59.5.3.7 No witness that is not a party shall be allowed to attend the hearing before he/she testifies. Hearings will be closed to the public unless both parties and the Chair agree to make the hearing open to the public. If the hearing will be open to the public, the student agrees to sign a consent to release student record information as required by FERPA.

59.5.3.8 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 determined 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 GAP.

59.5.3.9 A record of the hearing (e.g., by audiotape, videotape, or court reporter) 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.

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

59.5.3.11 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 or prejudicial.

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#### 59.5.4 Appeal Hearing-Order of the Proceedings.

59.5.4.1 The Chair will begin the hearing with opening remarks. The Chair will summarize the issues, describe the role of the GAP, and explain the procedures to be followed. The Chair will then ask each person in the room to identify themselves for the record.

59.5.4.2 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:

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

#### 59.5.5 Post-Hearing Procedures.

59.5.5.1 Upon completion of the hearing the GAP will meet in closed session for deliberations. If the process requires additional time the GAP 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 GAP unless for some unexpected reason his/her vote is required to break a tie.

59.5.5.2 The Chair will prepare a written final decision to the student, **and all members of the panel will sign**, including:

- (a) Indicate whether the appealed decision is affirmed or modified.
- (b) Articulating the reasonable factual basis upon which the GAP reached its conclusion.
- (c) Recommendations, if necessary to the individual case being heard, for further actions by university officials.

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59.5.5.3 The Chair will provide the Respondent, Department Head of the department offering the course **or administering the degree program**, Dean of the College offering the course **or administering the degree program**, Associate Vice President **Provost** for Graduate **and Professional** Studies, and the Executive Vice President for Academics and Provost with a copy of the decision.

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

59.6 The Chair may reasonably deviate from the procedures 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.

\_\_\_\_\_

*Date form received in OGS:* \_\_\_\_\_

*Received by (Print & Initial):* \_\_\_\_\_

### *Graduate Appeals Panel (GAP) Hearing Request Form*

*This form is used to request a hearing under Student Rule 59. This form must be completed and filed with the Associate Vice President for Graduate Studies not later than ten (10) calendar days after receiving the dean's (or designee's) letter referenced in section 59.4.3. For students that have complete the process set forth in Student Rule 48, this form must be received by the Associate Vice President for Graduate Studies no later than ten (10) calendar days after receiving the dean's notification referenced in Student Rule 48.5.*

*Student Name (Last, First, Middle):*

*UIN:*

*Local Street Address:*

*City, State, Zip:*

*Telephone Number:*

*E-mail Address:*

*Department administering the student's degree program:*

*Disputed Academic Decision (must be within scope of GAP, see section 59.1):*

*Respondent (Person/Committee Who Made Decision):*

*Grounds upon which the grievance is based:*

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~~Attach (1) respondent conference letter; (2) department review letter; and (3) college review letter.~~

~~List all witnesses with first hand knowledge who can support your allegations.~~

~~Attach legible copies of all documents that support your allegations.~~

~~What outcome or action are you requesting as a result of this grievance?~~

~~Advisor (include contact information):~~

~~Is your advisor an attorney? If yes, have you advised your attorney his/her role is only that of an advisor?~~

~~Student Signature:~~

~~Date:~~

~~This form may be hand-delivered to:~~

~~This form may be mailed to:~~

~~This form may be faxed to:~~

~~This form may be e-mailed to:~~

Approved by the Student Rules and Regulations Committee on 6/20/2014.

Approved by Faculty Senate on 7/14/2014.

Approved by the President on 8/6/2014.