

Dr. Anne Reber
Dean of Student Life

MEMORANDUM

DATE: May 7, 2021

TO: Dr. John Stallone
Speaker, Faculty Senate

FROM: Dr. Anne Reber
Chair, Rules and Regulations Committee

SUBJECT: Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Student Rule 57

Approved by the Student Rules and Regulations Committee on May 7, 2021

Approved by the Faculty Senate on June 14, 2021

Approved by the President July 21, 2021

PROPOSAL

Please see attached rule with tracked changes.

JUSTIFICATION

PROPOSED BY:

Name: Valerie Balester
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Department: Undergraduate Studies
Department Mail Stop: 1125
Date: April 19, 2021

Approved by the Student Rules and Regulations Committee on May 7, 2021.

Present Rule with additions in **bold red font** and deletions ~~struck~~

57. Undergraduate Academic Appeals Panel

(Revised: 2015) **(Revised 2021)**

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 Academic Misconduct. Actions stemming from academic misconduct, and any appeal of that action, should be referred to 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.~~ **race, color, sex, gender identity, age, religion, disability, national origin, immigration status, citizenship status, sexual orientation, genetic information, 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.

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“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 information.

“Capricious” means unpredictable and subject to whim.

“Credible” means believable by a reasonable person.

“Information” means material by which an alleged fact is established or disproved. Information 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 any legally protected status that is addressed through Student Rules 45 – 47.

“Preponderance of information” means the greater weight of credible information submitted in the hearing. For a fact to be established by a preponderance of the information 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

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(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 preliminary 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 Review. The student shall request in writing a review by the respondent. The student shall inform the respondent of any concerns about the adverse decision and communicate how and why the decision is arbitrary, capricious, or prejudicial. The respondent must fully inform the student about the grounds for and process used in reaching the decision. The aim of this review is for: (1) the student to communicate how and why the decision is arbitrary, capricious, or prejudicial; (2) the instructor to communicate how and why the decision is not arbitrary, capricious, or prejudicial; and (3) the instructor to correct errors, if any, in the decision. The respondent shall provide a written response to the student as soon as practicable detailing the grounds for the decision.

57.4.1.2 Department Review. If the student does not receive a satisfactory outcome at the conclusion of the respondent review, the student shall request in writing a review by the department head (or designee) of the department offering the course informing the department head (or designee) of any concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial. The department head (or designee) shall provide a written response to the student and the respondent as soon as practicable detailing the grounds for the decision.

57.4.1.3 College Review. If the student does not receive a satisfactory outcome at the conclusion of the department review, The student shall request in writing a review by the dean (or designee) of the college having administrative oversight of the department offering the course informing the dean (or designee) of any concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial. The dean (or designee) shall provide a written response to the student, the original respondent, and the department head (or designee) as soon as practicable detailing the grounds for reaching the decision; how and why the previous decision should stand or be revoked; and describing changes, if any, in the previous decision.

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 any concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial.

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.

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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 with the Office of Undergraduate Studies. The form is available on the Undergraduate Studies website (click link [here](#)).

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 information 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 information 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 information 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 a hearing is granted, the chair 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 excused from that hearing.

57.5.2.3 The respondent(s) shall submit to the chair and student a list of the names of any persons with independent, first-hand knowledge of the case or other pertinent information who wish to be present at the hearing. The respondent(s) shall also provide to the chair and the student copies of all documents to be submitted for consideration by the UAAP. The list of names and the documents the respondent(s) wish to provide shall be submitted no later than three (3) university business days prior to the hearing. The failure to meet this deadline shall result in the exclusion of the persons listed or documents from the hearing.

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57.5.2.4 If, after receiving the list provided by the respondent(s), the student wants to add additional persons with independent, first-hand knowledge of the case or other pertinent information or documents to those already submitted with the hearing request form, the student shall submit to the chair and respondent(s) the additional documents and a list of names not less than two (2) university business days prior to the hearing. The failure to meet this deadline shall result in the persons listed and documents being excluded from the hearing unless the respondent(s) agrees to waive the deadline or the chair decides the additional documents and persons listed will be allowed.

57.5.3 Appeal Hearing.

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

57.5.3.3 Each party may be accompanied at the hearing by one advisor. 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 persons brought in by either party. The advisor's sole role is to provide advice and counsel to the student or the respondent(s).

57.5.3.4 At any time, the chair or panel may consult with an appropriate university advisor, call or recall any person brought in by either party, 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 person who is not a party shall not be allowed to attend the hearing before he or she testifies. Hearings will be closed to the public.

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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 information that the evaluation of the student's performance was arbitrary, capricious, or prejudicial.

57.5.4 Appeal Hearing-Order of the Proceedings.

57.5.4.1 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:

- (a) Opening statement by the student.
- (b) Opening statement by the respondent(s).
- (c) Student presents information (documents and any persons listed), with opportunity for questioning by the respondent(s) and panel members.
- (d) Respondent(s) presents information (documents and any persons listed), 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.

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

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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 a preliminary resolution procedure within three (3) university business days of the instructor's decision. Students requesting a hearing before the UAAP must file the hearing request form within ten (10) university business days of receiving the dean's (or designee's) written response referenced above (57.4.1.3) 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 a preliminary 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 within ten (10) university business days of receiving the dean's (or designee's) written response referenced above (57.4.1.3) 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 preliminary resolution process immediately after notification of dismissal. The student must initiate a preliminary 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 within ten (10) university business days of receiving the dean's (or designee's) written response to the appeal or five (5) university business days before the first day of the long semester

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(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 within ten (10) university business days of 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.

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