

SPECIAL REPORT
of the
ACADEMIC MATTERS AND GRADUATE COUNCILS
concerning

ACADEMIC GRIEVANCE PROCEDURES
(This Senate Document replaces Sen. Doc. No. 00-015, Appendix A)

Presented at the
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(Approved without comment – June, 2016)

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ACADEMIC GRIEVANCE PROCEDURES

I. Introduction

The students, faculty and administration of the University of Massachusetts at Amherst recognize the need to provide an orderly process for the resolution of academic grievances. The following Grievance Procedure has therefore been created to meet this need. This procedure applies to all undergraduate and graduate degree programs, and all courses offered by the Amherst campus, including courses offered by the Division of Continuing Education and online courses.

This procedure is the only official procedure for resolving academic grievances. No school, college, department or office on the Amherst campus may require any student to pursue an academic grievance through any other procedure.

Grievances which have been brought to a hearing under another campus grievance procedure shall not be brought to a hearing under this procedure. Students who file a written grievance under this procedure shall be expected to abide by the final disposition of the grievance, and shall be precluded from seeking review of the matter under any other procedure within the University.

The Provost's Office shall be responsible for the distribution of this document. Copies shall be kept on file by all deans, department heads and chairs, undergraduate program directors and all other centers responsible for undergraduate academic advising. Additional copies shall be available upon request from the Provost's Office, the Faculty Senate Office and the Academic Honesty and Grievance Office. Both the existence of the procedure and the role of the Academic Honesty and Grievance Office shall be summarized in the *Undergraduate Catalog* and the *Graduate School Bulletin*, and the entire procedure shall be published in *Undergraduate Rights and Responsibilities* and the *Graduate School Handbook*.

II. Definitions and Formal Procedure

A. Academic Honesty and Grievance Office

The Academic Honesty and Grievance Office, located in Room 613 Goodell Building is the process manager for grievances brought under this procedure. As such, the Academic Honesty and Grievance Office is responsible for ensuring that only those matters properly defined as academic grievances are pursued through this procedure, for advising all concerned parties of their rights and obligations under this procedure, for convening hearing panels, and for scheduling hearings. The Academic Honesty and Grievance Office has discretion to extend timelines. For each formal grievance which proceeds to a hearing, the Academic Honesty and Grievance Office shall maintain a confidential file open only to the student, the instructor, the Provost or designee, and the Hearing Panel.

The Ombuds Office, located in Room 823 Campus Center, is a confidential and neutral place where students and instructors can receive help weighing their options, understanding relevant policies and available resources, and receiving referrals for more formal measures when circumstances warrant. It is sometimes the case that the issue of concern can be resolved through informal mediation and the Ombuds Office can provide informal mediation services.

B. Definitions

Student – The student or students bringing a complaint under this procedure. This includes matriculated and non-matriculated students registered for classes during the fall or spring semester through the undergraduate registrar's office, the graduate registrar's office, or the Division of Continuing Education; matriculated and non-matriculated students enrolled in classes offered during the wintersession or a summer session; and matriculated graduate students on program fee.

Respondent – An employee of the university who has made an official determination with respect to the academic performance or academic record of the student. Graduate students who serve as teaching assistants or course instructors may also be names as respondents. If the grievance results from a policy which a graduate student was instructed to carry out by a faculty supervisor, then the graduate student and the faculty supervisor should be names as co-respondents. Hereafter called "instructor."

Academic grievance – A complaint by the student alleging that the instructor has caused the student to suffer some specific harm related to the academic matter within the authority of the Provost’s Office. However, complaints that concern (1) matters of academic judgment, or (2) the substance (as opposed to the administration) of University, campus, Faculty Senate or school and College policies and regulations shall NOT be considered grievances under this procedure.

Academic Judgment – The evaluation of a student’s academic performance and the assignment of a grade as a result of that evaluation shall be considered a matter of academic judgment, and therefore not subject to a grievance except where the grade has been determined in an arbitrary and capricious manner or where the procedure used in the evaluation is found to be in violation of University policy or state or federal statute.

University policy – Any policy which has been approved by the Provost, the Chancellor, the Board of Trustees, or the Board of Higher Education or any successor board.

Arbitrary and capricious grading – (1) The assignment of a course grade to a student on some basis other than performance in the course, or (2) the assignment of a course grade to a student by resorting to unreasonable standards different from those which were applied by the same instructor to other students in that course, or (3) the assignment of a course grade by a substantial, unreasonable and unannounced departure from the instructor’s previously articulated standards.

Written notification – When notification in writing is required, this may occur by way of a suitable record of e-mail transmissions in any situation where privacy rights are not infringed by the use of e-mail according to written University policy, *and* where the recipient has previously provided the sender with his or her e-mail address. The word “confidential” should be inserted in the subject line of the message. Hard copies of all e-mail transmissions should be maintained by the sender. Written correspondence not done by e-mail will be sent to instructors at their departmental address, and to students at their current address as recorded at the University.

For the purpose of determining deadlines, the event which gives rise to the grievance shall be deemed to have occurred when the student may reasonably be assumed to have become aware of its existence.

C. Attempting Informal Resolution Prior to Instituting a Grievance

Students should attempt informal resolution prior to instituting a formal grievance. Assistance or advice in doing this is available from the Academic Honesty and Grievance Office.

C-1 Communication with Instructor

1. Students wanting to contest a grade that they find arbitrary or capricious must offer the instructor the opportunity to discuss the situation prior to taking any action. After receiving a grade that the student wishes to contest, he/she must notify the instructor in writing within ten business days. The instructor then has no fewer than five business days to respond.
2. The instructor does not respond: If the instructor does not respond in these five days, the student should communicate with the department head or designee for assistance in resolving the matter. The student may then decide to file a formal grievance and has fifteen business days to do so (see D. below). At this point, the Academic Honesty and Grievance Office will begin the process to organize the hearing panel and schedule the hearing.
3. As process manager, the Office has the discretion to extend timelines; if warranted, the Office may contract timelines (with the agreement of the parties) during sessions outside the regular academic year.

C-2 Informal Process

The instructor and student may agree on an informal means of resolving the matter. In the event that the instructor has left the University or is on leave, the student should bring the matter to the attention of the appropriate department head or chair or designee.

C-3 Formal Process

If no informal agreement is reached and a student wishes to file a grievance, the student must file a formal grievance by notifying the Academic Honesty and Grievance Office within 15 days of any of the following:

- a) the student sends a written request to contest the grade to the instructor, the instructor does not respond within five business days, and subsequent efforts to communicate with the department head or designee were not successful.
- b) the student and instructor (even after notifying the department head or designee) are unable to reach an informal resolution
- c) the instructor denies the allegation, but the student continues to believe that arbitrary or capricious grading has occurred

D. Procedures for Initiating a Formal Grievance

If attempts at informal resolution are not successful, the student may initiate a formal grievance.

1. The student contacts the Academic Honesty and Grievance Office, 613 Goodell Building, in writing, concerning the desire to file a grievance. The student is advised about the hearing process and receives the official Hearing Request Form, if the student decides to proceed with the grievance. On the request form, the student identifies: the instructor, the grade that the student wishes to contest and the harm alleged to have been caused as a result of the instructor's action(s). The student should describe the substance of the grievance, any steps that have been taken to try to resolve it, any evidence that might be introduced at a hearing, and the relief that the student would find acceptable. From this point on, in the absence of credible and relevant new evidence, the student's pursuit of the academic grievance must remain consistent in content and scope with this claim, and instructor will be expected to respond only to the issues raised in this grievance.

Hearing Request Procedure:

The request for a hearing must be submitted in writing to the Academic Honesty and Grievance Office on an official Hearing Request Form, as described above. The request must clearly and concisely state a description of the grade being contested; it must also indicate any remedy sought by informal resolution. The form must be signed and dated by the student.

2. *The Academic Honesty and Grievance Office notifies the instructor of the grievance.* Within two business days of receiving the student's formal grievance, the Academic Honesty and Grievance Office sends a copy of it to the instructor, along with a notice specifying the deadlines involved. The Academic Honesty and Grievance Office begins the process of scheduling a date for the hearing, not to exceed 15 business days after the student submits the formal grievance.

3. *A hearing on the grievance will be held within 15 business days of the student filing the formal grievance letter.* If the grievance is filed with fewer than 15 business days remaining in the semester, the hearing may be delayed as long as 15 business days from the beginning of the following semester. The process may go forward during intersession or the summer if the student so requests and the instructor can be present. The student's and instructor's rights and obligations in the hearing process are described below. The Academic Honesty and Grievance Office will schedule the hearing, and will give the student and instructor at least ten days' notice. The student and instructor will be responsible for notifying their respective advisers and witnesses, and shall provide the Academic Honesty and Grievance Office with their names and roles.

The student and instructor have five business days to submit any additional information he/she wants the panel to review and the Office distributes these materials to the panel three business days in advance of the hearing.

E. Hearing Panels

The Academic Honesty and Grievance Office will convene a panel to hear the grievance. Each Hearing Panel will be composed of five disinterested persons. Three will be members of the University faculty, and two will be students (of the same graduate or undergraduate constituency as the student in the case). If the instructor is a graduate student, he or she may choose to have one of the faculty members on the Panel be replaced by a graduate student who is or has been a teaching assistant or teaching associate on the Amherst campus. The members of the panel are to be appointed by the Academic Honesty and Grievance Office in consultation with the Secretary of the Faculty Senate, the President of the Student government Association, and the President of the Graduate Student Senate. One of the faculty members on the Panel shall serve as chair.

All five members of the Panel must be present at a hearing. The Hearing Panel will evaluate all evidence and arguments presented to it by the student and the instructor. The chair of the Hearing Panel will ensure that the Panel will disregard any arguments or evidence that have not been presented in the student's formal grievance statement.

The Hearing Panel will keep in confidence all matters which come before it. Its members will not communicate with each other about the nature of the grievance or the response prior to the hearing.

F. Rules of Hearing

The Academic Honesty and Grievance Office is responsible for the reasonable implementation of these rules.

1. *Materials available to participants:* At least five business days prior to the hearing, the student and the instructor must submit to the Academic Honesty and Grievance Office copies of any materials they wish the Hearing Panel to consider, so that the Academic Honesty and Grievance Office may distribute them to the other party and the Hearing Panel for review three days prior to the hearing. Any new material submitted at the hearing will be accepted only at the discretion of the hearing panel. The party submitting the materials should provide enough copies for all parties and all members of the Hearing Panel, as well as a copy to be retained by the Academic Honesty and Grievance Office. Any materials submitted in connection with the grievance process are considered confidential.

2. *Persons present at the hearing:* Attendance throughout the hearing is limited to: the student, the instructor, a representative of the Academic Honesty and Grievance Office who will serve as staff person during the hearing, members of the Hearing Panel, and an advisor for each of the parties. Witnesses may be present at the hearing only when they are presenting evidence. An advisor may confer with and advise the student or instructor during the course of the hearing, but may not directly address the Hearing Panel except with the consent of the Hearing Panel and the other party. This advisor may not be an attorney or an employee of an attorney, unless the opposing party is himself or herself an attorney.

3. *Failure of a person to appear:* The Hearing Panel may proceed with the hearing and make its findings and decision even in the absence of any party, witness, or advisor who fails to appear. However, the Hearing Panel may not base its findings of fact or decision on the fact that a person has failed to appear.

4. *Evidence:* the Hearing Panel need not follow technical rules of evidence, but evidence shall be admitted only if it is the kind of evidence upon which reasonable persons would rely in the conduct of serious affairs. The Hearing Panel may consider evidence presented by affidavit, giving it such weight as it deems proper. All evidence shall be taken in the presence of all members of the panel and of all of the parties, except where any party is absent by default or has waived the right to be present. The burden of proof shall be placed on the student, who must demonstrate, by a preponderance of evidence, that one or more of the specified forms of arbitrary and capricious grading has occurred and that its occurrence has adversely affected her or him.

5. *Presentation of the case:* the representative of the Academic Honesty and Grievance Office will make a recording of the hearing. Statements from the parties will be addressed to the Hearing Panel, not to each other. The chair will ensure

that the hearing does not become a debate or engagement between the two parties. The time limits noted below are considered norms; the chair has the discretion to allow extensions of time. The case will be presented in the order noted below.

The student and then the instructor will each present his or her documentary evidence and witness testimony. Panel members and opposing parties may question witnesses, through the chair. If either party wishes to put questions to the other party, he or she will submit the questions to the chair, who shall decide if any of the questions submitted would be useful to the panel's determination, and then ask the questions of the other party. Each party will then summarize his or her position.

The hearing is considered concluded following the parties' summaries. Recording will end when the chair asks all persons present except Panel members to leave the room while the Panel discusses the evidence and formulates its decision. If necessary, the Panel may reconvene at a later time to complete its deliberations, and the chair may be empowered by the Panel to obtain answers to questions from one or both of the parties that occur to the Panel during its deliberations.

The chair of the Hearing Panel has the authority to modify procedures during the course of the hearing to accommodate unforeseen circumstances or needs of the parties or the Hearing Panel. If the chair is unable to exercise this authority, the representative of the Academic Honesty and Grievance Office will appoint another faculty member to act as substitute chair if necessary.

The recording of the hearing will be placed in the grievance file of the Academic Honesty and Grievance Office. Either the student or the instructor may request a copy of the tape, to be made at the party's expense. Any transcription of the recording shall be at the private arrangement and expense of the party who desires the transcript. Additional recordings of the hearing may be made by either party.

G. The Decision of the Hearing Panel

The report will state the Panel's findings on the question(s) in dispute, and the Panel's decision. Both the findings and the decision shall be arrived at by a majority vote of the Panel. The chair will issue the written report of the Hearing Panel within three business days of the conclusion of the hearing. The report shall be addressed to the Provost or designee. The chair will also send a copy to the Academic Honesty and Grievance Office for dissemination to the student and the instructor within five business days.

If an instructor has been found to (1) to have engaged in arbitrary and capricious grading, or (2) to be in violation of the University policy or state or federal statute, the hearing Panel will determine an appropriate method for redressing the situation. The Academic Honesty and Grievance Office will also send the report to the appropriate administrative offices within five business days after receiving the written report of the Hearing Panel.

The Hearing Panel's findings are final and binding on all parties.

H. Appeals

The Hearing Panel's findings are final, and may not be appealed, except on the basis of a violation of due process.

Due Process Appeal: "A violation of due process" is defined as a failure to comply with the Rules of hearing such that the failure reasonably may have affected the decision of the Hearing Panel to the harm of the party who has appealed. If either party believes that he or she was denied due process by the Hearing Panel, he or she may appeal in writing to the Provost or designee. This appeal must be made in writing within ten business days of the release of the Hearing Panel's report. The Provost or designee will rule on the appeal within ten business days of its submission. This procedure shall be deemed to have been exhausted once the ruling of the Provost or designee has been rendered.

I. Records of Academic Grievances

The Academic Honesty and Grievance Office (or any successor agency designated as process manager of this procedure) shall maintain the record of an academic grievance for a period of two years following the awarding of a degree to the student. If no degree is awarded to the student, the record shall be maintained indefinitely.

No record that an academic grievance has been filed may be made part of a student's official file in a department or school or college office, except as necessary to document a grade change (if relevant).

ACADEMIC GRIEVANCE HEARING REQUEST FORM

COURSE # _____ COURSE TITLE: _____

SECTION # _____ SEMESTER/YEAR _____

STUDENT NAME _____ ID _____

E-MAIL _____ TELEPHONE # _____

INSTRUCTOR _____ DEPT. _____

E-MAIL _____ TELEPHONE # _____

DEPT. HEAD OR DESIGNEE _____

OFFICE _____

E-MAIL _____ TELEPHONE # _____

DESCRIPTION OF GRIEVANCE (Include harm alleged to have been caused by instructor's actions; may include Any remedy sought by informal resolution):

RESOLUTION THE STUDENT WOULD FIND FAIR AND ACCEPTABLE:

I attempted an informal resolution: NO _____ YES _____ Date of written notification: _____

I have been informed of the Academic Grievance Policy: NO _____ YES _____

Student's Signature _____ Date _____

Please forward this completed form to: Academic Honesty and Grievance Office, 613 Goodell Building, or honesty@umass.edu

This space for use by the Academic Honesty and Grievance Office:

Request received:

Notification sent:

MOTION: That the Faculty Senate approve the Academic Grievance Procedures, as presented in Sen. Doc. 04-17 No. 17-011.