

Appendix C

Grievance Procedures for Students

Department of Counseling, Educational Psychology, and Special Education
College of Education
Michigan State University

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The “Academic Freedom for Students at Michigan State University” (AFR), the “Graduate Student Rights and Responsibilities at Michigan State University” (GSRR,) and the “Integrity of Scholarship and Grades” documents establish the rights and responsibilities of MSU students and prescribe procedures for resolving allegations of violations of those rights through formal grievance hearings.

In accordance with the AFR and the GSRR, the Department of Counseling, Educational Psychology, and Special Education (CEPSE) in the College of Education, has established the following procedures for adjudicating undergraduate and graduate student academic grievances. This also includes ***non-disciplinary*** hearings regarding allegations of academic dishonesty, violations of professional standards and falsification of academic records when a failing grade has been issued. (Grievances involving the outcome of ***disciplinary hearings***, which impose sanctions other than, or in addition to, a failing grade, are appealed to the Academic Integrity Review Board for Undergraduate students and to the University Graduate Judiciary for Graduate students. (See AFR 2.4.6, 2.4.7.1 and 4.3.11; GSRR 5.5.2 and "Integrity of Scholarship and Grades" policy, and General Student Regulation 1.00, “Protection of Scholarship and Grades.”)

Note: Students may not seek redress through a grievance hearing regarding alleged incompetence of instruction. (See AFR 2.2.1 and 2.2.2; and GSRR 2.2.1, 2.2.2.) Students should consult the AFR and the GSRR (published as part of *Spartan Life: Student Handbook and Resource Guide*) for a statement of student rights and responsibilities. A copy of this document can be obtained from the Department of Student Life or the Ombudsman’s Office. It can also be found on the web at: <http://www.vps.msu.edu/SpLife/index.htm> or <http://www.msu.edu/unit/ombud/index.html>. At any point during this process, students and faculty may contact the University Ombudsman’s Office for advice, guidance or assistance with addressing and following through on their concerns.

JURISDICTION OF THE DEPARTMENT OF CEPSE HEARING BOARD

The Department of CEPSE Hearing Board serves as the initial hearing board for students seeking redress for grievances that originate in this department and alleged violations of academic and professional rights set down in the AFR or the GSRR. The hearing board also serves as the initial venue for students to contest allegations of academic misconduct. (See AFR 2.4.2, 2.4.2.2 and 2.4.9; GSRR 5.1.1, 5.3.2 and 5.3.6.2.)

The Department of CEPSE Hearing Board may serve as the initial hearing board for cases involving ambiguous jurisdiction that are referred by the Assistant Provost for Undergraduate Education. (See AFR 2.4.6.1.)

COMPOSITION OF THE DEPARTMENT OF CEPSE HEARING BOARD

The Department of CEPSE shall constitute a Hearing Board by fall semester of each academic year. (See AFR 2.4.4.1; GSRR 5.5.2.)

The Hearing Board shall be composed of the unit administrator or designee, three faculty, and three students (See AFR 2.4.3 and 2.4.4.1 and GSRR 5.1.2). Members shall serve one year beginning in the fall semester. The one-year term does not preclude reappointment of any member the following year. (See GSRR 5.1.2, 5.1.5, and 5.1.6.)

The Department Faculty Advisory Committee (FAC) shall select the three faculty members and three alternates by the fall semester of each academic year (See AFR 2.4.3 and 2.4.4.1 and GSRR 5.1.2). The FAC will select the Chair of the Hearing Board. The Department Hearing Board will also include the Chair of the Department or a designee, who will vote only in the case of a tie of the other six members of the Board (three faculty and three students).

Three student members and three alternate members at each degree level (undergraduate and graduate) will be selected by the representative student groups at the beginning of each fall semester.

For hearings involving **undergraduate** students, the Department Hearing Board shall include the three faculty members and three **undergraduate** student members. (See AFR 2.4.3 and 2.4.4.1).

For hearings involving **graduate** students, the Department Hearing Board shall include the three faculty members and three **graduate** student members. (See GSRR 5.1.2).

No one involved or having conflicts of interest in the case may serve on the Hearing Board. Procedures for challenging and replacing the membership of the Board are outlined in the AFR and GSRR. (See AFR 4.2.7; GSRR 5.1.2 and 5.1.7.)

[See further reference to the rights of complainants and respondents concerning Hearing Board membership below, in III.F.]

REFERRAL TO THE DEPARTMENT OF CEPSE HEARING BOARD

A student who believes his or her rights have been violated by a member of the Michigan State University community shall first attempt to resolve the dispute in an informal discussion with the appropriate individual(s). (See AFR 2.4.2 and GSRR 5.3.1 and 5.3.2.)

If after this discussion, the student remains dissatisfied with the results, the student should meet with the Chair of the Department and/or the University Ombudsman to seek a resolution (See AFR 2.4.2 and GSRR 5.3.2.)

The Department Chair may respond by asking the complainant to consult with the appropriate Program Director. This does not preclude the student's right to consult with the Department Chair, either instead of, or after, consulting with the relevant degree Program Director.

If after this discussion, the student remains dissatisfied with the results, the student may submit to the Department Chair a written, signed request for an academic grievance hearing. The letter must (1) specify the alleged violations of academic rights to justify the hearing, (2) identify the individual(s) against whom the complaint is filed, and (3) state the suggested remedy that could be implemented by the Department Chair or degree Program Director. (See AFR 2.4.2 and GSRR 5.3.2 and 5.3.6.)

A request for a grievance hearing must normally be initiated no later than mid-semester following the semester in which the alleged violation of academic rights occurred (excluding summer semester). If either the student (the "complainant") or the individual(s) alleged to have violated the student's academic rights (the "respondent") is absent from the University during that semester, or if other appropriate reasons exist, the Hearing Board may grant an extension to this deadline. If the University no longer employs the respondent before the formal grievance procedures are completed, the grievance may still proceed. (See AFR 2.4.2 and 2.4.2.1; and GSRR 5.3.6.1.)

Upon receipt of a written request for a grievance hearing from an undergraduate student, the Department Chair shall promptly forward the complaint to the Chair and members of the Department Hearing Board and to the respondent. (See AFR 2.4.2.3.)

Upon receipt of a written request for a grievance hearing from a graduate student, the Department Chair shall promptly forward the complaint to the Chair and members of the Department Hearing Board and to the respondent within **10** class days. (See GSRR 5.4.3.)

The Department Chair also shall include the Department's Grievance Procedures with the complaint when the latter is forwarded to the Hearing Board members and to the parties to the grievance.

Until such time as any of the alternates are called to become full members of the Hearing Board, they shall not receive any communications about the grievance in order to protect the confidentiality of the complainant and the respondent.

In cases involving alleged student academic misconduct or violation of academic and professional rights of students, the Department Chair, in consultation with the Dean, may waive jurisdiction and refer the request for a hearing to the College Hearing Board. (See AFR 2.4.2.2, and 2.4.6; GSRR 5.3.6.2.)

The Chair of the Department Hearing Board shall then promptly convene a meeting of the Hearing Board to review the request for a grievance hearing, for both jurisdiction and judicial merit. The Board may also request a written response from the respondent. After considering all submitted information, the Hearing Board may:

Decide that sufficient reasons for a hearing do not exist and dismiss the grievance, providing a written explanation to all appropriate parties to the grievance, to the Department Chair, to the Ombudsman, and to the Dean of the College. The student may appeal this decision to the College Hearing Board.

Decide that sufficient reasons for a hearing exist and accept the request, in full or in part, and proceed to schedule a formal hearing.

Invite the parties to meet with the Hearing Board for an informal discussion of the issues. Such a discussion shall not preclude a later formal hearing.

(See AFR 4.4.2; GSRR 5.4.6.)

If the Department Hearing Board decides to schedule a grievance hearing, the Chair of the Hearing Board shall promptly negotiate a hearing date with the Board members and with the parties to the grievance. An additional meeting only for the Hearing Board should also be scheduled, in the event that additional deliberations on the findings become necessary.

At least **3** class days before a scheduled hearing involving an undergraduate student, the Chair of the Hearing Board shall notify the respondent and the complainant in writing of (1) the nature of the issues, charges and/or conflicts in sufficient detail to enable preparation of individual cases; (2) the time, date and place of the hearing; (3) the names of the parties to the grievance; (4) the names of the Hearing Board members, including alternates; and (5) the names of the witnesses and advisor, if any; and (6) the right to challenge Hearing Board members because of a conflict of interest. (See AFR 4.2.7 and 4.4.3.)

At least **6** class days before a scheduled hearing involving a graduate student, the Chair of the Hearing Board shall notify the respondent and the complainant in writing of (1) the nature of the issues, charges and/or conflicts in sufficient detail to enable preparation of individual cases; (2) the time, date and place of the hearing; (3) the names of the parties to the grievance; (4) the names of the Hearing Board members, including alternates; and (5) the names of the witnesses and advisor, if any. (See GSRR 5.4.7.) This notification should also remind the parties to the grievance of their right to challenge the membership of the Hearing Board, both for and without cause, under the rules prescribed in GSRR 5.1.7.

At its discretion, the Hearing Board may set reasonable time limits for each party to present its case and must so inform the parties of the time limit in the written notification of the hearing.

To protect the confidentiality of the information and the privacy of the student, attendance at the hearing may be limited to the Department Hearing Board members, the complainant, the respondent, witnesses for either party, if any, and an advisor for each party, if any. The Hearing Board may limit the number of witnesses. (See AFR 4.2.4 and 8.1.6; GSRR 8.1.4.) Unless otherwise approved by the Hearing Board, advisors and witnesses shall be limited to members of the MSU community (faculty, staff and students).

Should the respondent fail to acknowledge the notice of a hearing, the Hearing Board may either postpone or proceed with the hearing. (See AFR 4.4.5.)

If the complainant fails to appear at the hearing, the Department Hearing Board may either postpone the hearing or dismiss the case. (See GSRR 5.4.9a.)

If the respondent fails to appear at the hearing, the Hearing Board may either postpone the hearing or hear the case in the respondent's absence. (See AFR 4.4.7b; GSRR 5.4.9b.)

In unusual circumstances, the Hearing Board may accept written statements from either party to a hearing in lieu of a personal appearance. These written statements must be submitted to the Hearing Board at least 1 day before the scheduled hearing. (See AFR 4.4.7c; GSRR 5.4.9c.)

Students enrolled in *fully off-campus* degree programs who are unable to attend in person, may participate in *real time* by speakerphone or by the use of other technologies.

Either party to the grievance hearing may request a postponement of the hearing. The Hearing Board may either grant or deny the request. (See AFR 4.4.6; GSRR 5.4.8.)

Members of the Hearing Board must not talk about the hearing with either party before the scheduled hearing.

DEPARTMENT OF CEPSE HEARING PROCEDURES

General Procedures

The Chair of the Department Hearing Board shall convene the hearing at the agreed-upon time, date and place. The Hearing Board Chair will ensure that a collegial atmosphere prevails. (See AFR 2.4.4, 2.4.4; GSRR 5.4.10.)

During the hearing, parties to a grievance shall have an opportunity to state their cases, present evidence, designate witnesses, ask questions and present a rebuttal. (See AFR 2.4.4; GSRR 5.4.10.1.) The procedures may be taped.

All witnesses shall be excluded from the proceedings except when testifying. Witnesses must confine their testimony to their own independent recollection and may not speak for others.

Involvement of counsel/advisor normally should not be required. Each party must present her/his own case, and counsel/advisors may have a voice in the hearing. (See AFR 2.4.4.2, 4.3.5, 4.4.8d and 8.1.6; GSRR 5.4.10, 8.1.4.)

To assure orderly questioning, the Chair of the Hearing Board shall recognize individuals before they speak. All parties have the right to speak without interruption. Each party has the right to question the other party and to rebut any oral or written statements submitted to the Hearing Board. The Chair of the Hearing Board will enforce any announced time limits on each party to present its case and, if necessary, extend equal time to each party.

Hearing Procedures

Introductory remarks by the Chair of the Hearing Board: The Chair introduces hearing panel members, the complainant, the respondent and the advisor(s), if any. The Chair reviews the hearing procedures, including time limits, if any, for presentations by each party and witnesses. The Chair explains that the burden of proof rests with the complainant, with the exception of appeals of allegations of academic dishonesty, in which case the instructor bears the burden of proof, which must be met by a “preponderance of the evidence.” If the proceedings are being taped, the Chair must inform the parties. (See AFR 2.4.9 and 8.1.17; GSRR 5.5.1, 8.1.16.)

Presentation by the Complainant: The Chair recognizes the complainant to present without interruption any statements relevant to the complainant’s case, including the redress sought. The Chair then recognizes questions directed at the complainant from the Hearing Board, the respondent and the respondent’s advisor, if any.

Presentation by the Complainant’s Witnesses: The chair recognizes the complainant’s witness (es), if any, to present, without interruption, any statement relevant to the complainant’s case. The Chair then recognizes questions directed at the witnesses by the Hearing Board, the respondent and the respondent’s advisor, if any.

Presentation by the Respondent: The Chair recognizes the respondent to present without interruption any statements relevant to the respondent’s case. The Chair then recognizes questions directed at the respondent from the Hearing Board, the complainant and the complainant’s advisor, if any.

Presentation by the Respondent’s Witnesses: The chair recognizes the respondent’s witnesses, if any, to present, without interruption, any statement relevant to the respondent’s case. The Chair then recognizes questions directed at the witnesses by the Hearing Board, the complainant and the complainant’s advisor, if any.

Rebuttal and Closing Statement by Complainant: The complainant may refute statements by the respondent and the respondent’s witnesses and advisor, if any, and present a summary statement.

Rebuttal and Closing Statement by Respondent: The respondent may refute statements by the complainant and the complainant’s witnesses and advisor, if any, and present a summary statement.

Final questions by the Hearing Board: The Hearing Board may ask questions of all parties to the grievance.

Hearing Board’s Deliberations, Decisions, and Report

Deliberations by the Hearing Board: After all evidence has been presented, with full opportunity for explanations, questions and rebuttal, the Chair will excuse all parties to the grievance and meet in executive session to determine its findings. When possible, deliberations should take

place immediately following the hearing. If the Hearing Board is unable to complete its deliberations and reach a decision at the meeting, the Hearing Board should reconvene at the previously scheduled follow-up meeting. (See III. G. above.)

Outcome: If a majority of the Hearing Board finds, based on a “preponderance of the evidence” (See AFR 8.1.17; GSRR 8.1.16), that a violation of the complainant’s academic rights has occurred and that redress is possible, it shall direct the Chair of the Department of Counseling, Educational Psychology, and Special Education to implement an appropriate remedy, in consultation with the Hearing Board. (See AFR 2.4.5 and 8.1.17; GSRR 5.4.11 and 8.1.16.) If the Hearing Board finds that no violation of academic rights has occurred, the case is dismissed. In cases in which the Hearing Board is asked to resolve an allegation of academic dishonesty and finds no misconduct, the Hearing Board may recommend to the Chair that the penalty grade be removed, the written record of the allegation, if any, be removed from the student’s records and a good faith evaluation of the student’s academic performance take place. If the Hearing Board finds for the instructor, the penalty grade shall stand and any written records of the allegation may remain on file. (See AFR 8.1.15 and GSRR 8.1.15.)

Written Report: The Chair of the Hearing Board shall promptly prepare a written report of the Hearing Board’s findings, including redress for the complainant, if applicable. The report shall indicate the rationale for the decision and the major elements of evidence, or lack thereof, which support the Hearing Board's decision. (See AFR 2.4.5; GSRR 5.4.11.)

The report also should inform the parties of the right to appeal within **10** class days following notice of a decision. (See AFR 2.4.7, 2.4.7.2, 2.4.7.3; GSRR 5.4.12 through 5.4.12.3.) The Chair shall forward copies to the parties involved, the Chair of the Department, the Dean of the College, the Ombudsman and, in cases involving graduate students, the Dean of the Graduate School. All recipients must respect the confidentiality of the report. (See AFR 2.4.5; GSRR 5.4.11.)

APPEALS

Either party to a grievance may appeal the decision of the Department Hearing Board to the College Hearing Board. The request for a hearing on appeal must be in writing, signed and submitted to the Dean of the College within **10** class days following notification of the Hearing Board’s decision. While under appeal, the decision of the Department Hearing Board will be held in abeyance. (See AFR 2.4.7 and 2.4.7.3; GSRR 5.4.12, 5.4.12.2 and 5.4.12.3.)

A request for an appeal must allege, in sufficient particularity to justify a hearing, that the initial Department Hearing Board had failed to follow applicable procedures for adjudicating the hearing or that findings of the initial Hearing Board were not supported by a “preponderance of the evidence.” The request also must include the redress sought. Presentation of new evidence normally is inappropriate. (See AFR 2.4.7.2 and 8.1.16; GSRR 5.4.12.1 through 5.4.12.2 and 8.1.16.)

RECONSIDERATION

If new evidence should arise, either party to a hearing may request the Hearing Board reconsider the case within 60 days upon receipt of the hearing outcome. The written request for reconsideration is to be sent to the Chair of the Hearing Board, who shall promptly convene the Hearing Board to review the new material and render a decision on a new hearing. (See AFR 4.2.6; GSRR 5.4.13.)

[Note: The preceding references to the AFR and GSRR documents are not exhaustive. Parties to the grievance hearing should consult the appropriate document. Use of the word “promptly” or the phrase “as soon as possible” rather than a specific number of class days is taken from the AFR, and occurs in situations when the GSRR cites a specific time reference.]

RESOURCES

Helpful information on University policy and procedures may be obtained at:

Spartan Life: Student Handbook and Resource Guide:

<http://www.vps.msu.edu/SpLife/index.htm>

Office of the Ombudsman: <http://www.msu.edu/unit/ombud/>

Revised Code of Teaching Responsibility, 2005

<http://www.msu.edu/unit/ombud/CodeofT.html>

Academic Honesty

<http://www.msu.edu/unit/ombud/honestylinks.html>

MSU Institutional Review Board (IRB): <http://www.humanresearch.msu.edu/>

Human Research Protection Manual: http://www.humanresearch.msu.edu/regs/regs_index.htm

The Graduate School: <http://www.msu.edu/user/gradschl/>

Guidelines for Graduate Student Advising and Mentoring Relationships

Guidelines for Integrity in Research and Creative Activities

<http://grad.msu.edu/staff/mentoreport.pdf>