R&J Proposed Revision - FINAL

APPENDIX VII DIVISIONAL PROCEDURE FOR STUDENT GRIEVANCE IN ACADEMIC AFFAIRS

1.0 PURPOSE
The purpose of this procedure is to allow for the timely resolution of student grievances related to academic dismissals and allegations of unlawful discrimination.

1.1 DEFINITIONS
A. ACADEMIC AFFAIRS - broadly defined to include all the competencies (knowledge, skills, and professional behaviors) that must be mastered in order to demonstrate satisfactory performance in all the requisite standards of the curriculum.
B. AD HOC HEARING COMMITTEE – Three faculty and two students.
C. ADMINISTRATIVE OFFICER – Dean or designee of the Dean to represent the School or Graduate Division and the University. If the student is registered in the Graduate Division, the Administrative Officer is the Dean or designee of the Dean of the Graduate Division. If the student is not registered in the Graduate Division, the Administrative Officer is the Dean or designee of the Dean of the School in which the student is registered.
D. AFFIRMATIVE ACTION REPRESENTATION - for technical assistance to all participants in unlawful discrimination complaints.
E. ARBITRARY and CAPRICIOUS - Absence of a rational connection between the facts and circumstances of the case and the choice made; an action not based upon consideration of relevant factors.
F. BRIEF – A concise, written summary of facts and arguments in a case.
G. DAYS - The term “days” means working days based on UCSF’s academic and administrative calendar.
H. EMPLOYEE - an individual employed by the University, including a faculty member.
I. GRADUATE DIVISION- encompasses all graduate academic degree programs and all graduate students in the Schools. This entity has the responsibility for the administration of graduate degree programs. The Dean of the Graduate Division is the institutional official responsible for the administration of UCSF affairs in accordance with academic policies established by the Academic Senate and the Graduate Council.
J. OPPOSING PARTY – for grievances involving unlawful discrimination, employee who is alleged to have engaged in the unlawful discrimination.
K. PARTIES – The grievant and the University’s representative for academic dismissals or Opposing Party (employee) for unlawful discrimination grievances.
L. PREPONDERANCE OF EVIDENCE - such evidence that, when weighed against that opposed, has more convincing force and the greater probability of truth.
M. PRE-HEARING CONFERENCE- a meeting of relevant parties that occurs prior to the hearing in order to agree upon the specific issues to be decided by the Ad Hoc Hearing Committee and procedural matters such as hearing schedule and duration, exchange and order of witnesses and documents, and other evidentiary matters.
N. PROVISION OF GRIEVANCE INFORMATION - this grievance procedure is designed for all student grievances except those specifically described in Section V, "Student Conduct and Discipline", in the University of California's Policies Applying to Campus
Activities, Organizations, and Students, revised 10/29/73, pages 5-7. The Student Affairs Office of the School in which the student is registered, or the Graduate Division if the student is registered in the Graduate Division, is charged with the responsibility for evaluating the nature of students' grievances and for advising students on the proper course of action. If the alleged grievance involves allegation of any kind of discrimination, the Affirmative Action Office shall thereafter be actively involved in all review processes to provide technical assistance.

O. REPRESENTATION - assistance to grievant in formal hearing process. May be of one or more of these types:
   1. NON-LEGAL REPRESENTATION - any person without legal training.
   2. LEGAL COUNSEL - includes attorneys and individuals with legal training.

P. SCHOOL-one of the professional schools.

Q. STUDENT - must either be currently registered as a student at a campus of the University, or have been enrolled at the time of the alleged infraction.

R. UNIVERSITY-University of California

1.2 INFORMAL PROCESS
Informal Process for Unlawful Discrimination Complaints that Do Not Involve an Academic Dismissal
A student who believes that the University or any administrative subdivision or employee thereof has discriminated against him/her and that such action has resulted in injury to the student is encouraged to attempt to resolve the matter informally with the party alleged to have committed the violation (e.g., course instructor), the head of the department or unit in which the alleged violation occurred, or both. An informal resolution of the grievance can occur at any time.

Informal Process for Academic Matters related to Academic Dismissal
Grievance procedures related to academic dismissal are appropriate only in cases in which the student believes bias or wrongdoing by a faculty member has occurred. Grievances are not the same as disagreements. A student cannot grieve an assigned grade, for example, merely because the student disagrees with the grade.

1.3 FORMAL PROCEDURES
Formal Procedure for Academic Dismissals and Unlawful Discrimination Complaints
In the event that informal resolution for a discrimination complaint is unsuccessful or the student has been dismissed, the student may lodge a formal grievance, as follows:

A. Within 20 days of the time at which the student is dismissed or could be reasonably expected to have knowledge of the alleged unlawful discrimination, the student may request the Dean of the Graduate Division (for any graduate student) or the Dean of the School (for non-graduate students) to conduct a formal review. This request must be made in writing. In the case of a graduate student, the Dean of the Graduate Division may request that the Dean of the School conduct the formal review. The Dean will appoint or assume the role of the Administrative Officer to conduct the formal review.

B. Within 15 days after the request for a formal review, the student will provide the Administrative Officer of the School or Graduate Division with a written complaint that includes the specific nature of the grievance, all pertinent supporting data and documents, and the nature
of the action requested by the student to redress the grievance. In the case of a dismissal, the written complaint must explain concisely why the student believes the University’s decision was arbitrary and capricious, and should address each specific reason for the dismissal set forth in the dismissal notice.

C. After receiving the written complaint from the student, the Administrative Officer will take appropriate action depending upon the nature of the grievance.

1. For a Dismissal Grievance. The Administrative Officer will convene an Ad Hoc Hearing Committee within a reasonable time. The Administrative Officer will consult with the Faculty Council Chair to provide an opportunity for the Faculty Council to designate a representative to the Ad Hoc Review Committee (this representative would be one of the three faculty on the Committee).

2. For a Discrimination Grievance.
   a) The Administrative Officer will promptly provide the Opposing Party with the student's written complaint and will request a written response from the Opposing Party. Within 15 days after receiving the student's complaint, the Opposing Party will provide the Administrative Officer with a written response that will include information regarding all points raised in the student's written complaint and any other supporting data and documents.
   b) Upon receipt of the Opposing Party’s written response, the Administrative Officer will promptly provide a copy to the student.
   c) Within 15 days of the student’s receipt of the written response from the Opposing Party, the Administrative Officer will meet with the student and Opposing Party and attempt to resolve the grievance.
   d) If the grievance is not resolved within 15 days of the meeting, the student may request, in writing, that the Administrative Officer convene an Ad Hoc Hearing Committee.

D. Upon establishment of cause by either party to the grievance, the Dean of the School or the Graduate Division may grant reasonable extensions of the time limits specified in the procedure.

1.31 CHARGE TO THE AD HOC HEARING COMMITTEE
A. The Ad Hoc Hearing Committee shall be composed of three faculty members, one of whom must be from a different School, who are knowledgeable about student education but who have not been involved in the dismissal process or discrimination complaint, plus two students. These students will be selected by the Dean.

B. The Chair of the Committee is responsible for convening the hearing and informing the Parties of the procedures to be followed. The Committee Chair will handle all procedural matters during the pendency of the hearing.
C. The student and the Administrative Officer or Opposing Party must be present throughout the hearing(s), even when represented. Except for good cause, as determined by the Ad Hoc Hearing Committee, the failure of the student to appear in person at the hearing will be deemed a voluntary withdrawal of his/her complaint. The failure of the Administrative Officer or the Opposing Party to appear in person will result in postponement of the hearing until relevant parties can be present.

D. Each party is responsible for the presentation of his/her own position.

E. The student may have non-legal representation or legal counsel present during the hearing(s), at his/her own expense. (The School, Graduate Division, or Opposing Party will be represented by University counsel if the student retains legal counsel.) If the student retains legal counsel, he/she shall notify the Chair of the Ad Hoc Hearing Committee ten (10) days prior to the pre-hearing conference or twenty (20) days prior to the hearing.

F. The Committee, the student, the Administrative Officer, or the Opposing Party may request that other parties present relevant information either in writing or in person at the hearing. The Committee will determine which information is relevant.

G. The Committee may, at its discretion, request that an attorney from the Office of the General Counsel be appointed to provide independent legal counsel to the Committee. This attorney shall not vote in the Committee’s deliberation process.

H. The Hearing will ordinarily be held within forty-five (45) days of receipt of the student request to conduct a formal review (as defined in Section 1.3.A). Unless otherwise agreed by the Parties (as defined in Section 1.1) and the Chair of the Committee, the student and his/her advocate(s), if any, will meet at least fifteen (15) days prior to the Hearing at a pre-hearing conference with the Committee Chair. The Parties and the advocates will meet to agree upon the specific issues to be decided by the Committee as well as procedural matters such as hearing schedule and duration, exchange and order of witnesses and documents, and other evidentiary and procedural matters. Absent a showing of good cause, these issues will be limited to the reasons stated in the written notice of dismissal and the student’s written response to the notice of dismissal. If the parties are unable to reach an agreement on the issues to be decided, the Committee Chair will determine the issues to be reviewed.

I. At least seven (7) days prior to the Hearing, or at another date agreed to by the Parties and the Chair of the Committee, all documents to be introduced as evidence at the hearing and names of all witnesses shall be exchanged. With the exception of rebuttal witnesses and documents used in rebuttal, any witnesses not named and documents not exchanged seven days before the hearing may, at the Committee Chair’s discretion, be excluded from the Hearing.

J. Unless the student and all involved employees of the University agree to an open hearing, the hearing will be closed. All materials, reports and other evidence introduced and recorded during the course of a closed proceeding may not be disclosed until the final resolution of the complaint except as may be required by applicable law. The Parties and advocates will at all times have the right to attend the hearing but witnesses shall appear only during their testimony. If the grievance
involves allegation of unlawful discrimination, the Committee will accept evidence and comments by a representative of the Affirmative Action Office.

K. The hearing will provide an opportunity for each party to present evidence and to cross-examine witnesses. The Committee Chair has broad discretion regarding the admissibility and weight of evidence and is not bound by federal or state rules of evidence. The Committee Chair will rule on all questions of procedure and evidence and has the right to limit rebuttal evidence at his/her discretion.

L. The hearing will be audio recorded by the University unless both parties agree to share the cost of a court reporter, or one party elects to pay the entire cost for the court reporter in order to have a transcript for its own use, in which case the other side may purchase a copy of the transcript for half the cost of the court reporter and transcription, plus any copy costs. The student may listen to the audio recording and may purchase a copy of it. The Dean will be the custodian of the audio recording and/or any stenographic records and will retain the recording for five (5) years from the time the Dean’s decision becomes final.

M. In the case of the dismissal, the student has the burden to prove by a preponderance of evidence (documentary and testimonial) that the dismissal was arbitrary and capricious. In the case of unlawful discrimination, the student has the burden to prove by a preponderance of evidence that the alleged unlawful discrimination occurred and to describe the remedy sought.

1.32 AGENDA FOR THE HEARING

A. Review of Rules of Procedure

B. Student will present a statement of grievance, additional remarks and desired outcome.

C. Committee seeks clarification and more facts if necessary.

D. Administrative Officer or Opposing Party will present a response to grievance, additional remarks and desired outcome.

E. Committee seeks clarification and more facts if necessary.

F. Presentation of witness(es) for student and their cross-examination.

G. Committee seeks clarification and more facts if necessary.

H. Presentation of witness(es) for the University or Opposing Party and their cross-examination.

I. Committee seeks clarification and more facts if necessary.

J. Closing statements from both parties, beginning with student.
K. At the discretion of the Committee, briefs may be submitted. The Committee Chair will determine the appropriate briefing schedule (if any), and if appropriate, reasonable extensions to the hearing.

1.33 COMMITTEE REPORT

A. The Committee will meet and submit a written report to the Administrative Officer no later than 15 days after the hearing is completed or briefs are filed.

B. In the case of academic dismissal, the report shall contain findings of fact and will recommend to the Dean to uphold or not to uphold the dismissal. The report will recommend upholding the dismissal if the Committee finds that the student has not met his/her burden to establish by a preponderance of the evidence that the School’s decision was arbitrary and capricious. In the case of unlawful discrimination, the report shall contain findings of fact as to whether the alleged discrimination occurred and recommendations for a remedy if appropriate.

C. Lack of Committee consensus of final recommendation may be accompanied by a majority and a minority report. Each Committee member will sign the report to which he/she subscribes.

D. Upon establishment of cause by either party to the grievance, the Chair of the Ad Hoc Hearing Committee may grant reasonable extensions of the time limits specified in the procedure.

1.34 DISPOSITION OF REPORT AND RECOMMENDATION

A. The Committee will present its written report to the Dean. The Dean will accept the report, remand it back to the Committee for further consideration or reject the report. The recommendations of the Committee are advisory to the Dean, whose decision is final. The Dean will inform the Ad Hoc Hearing Committee of his/her decision. In the case of a student registered in the Graduate Division, the convening Dean shall forward a copy of the final recommendation to the other relevant Dean.

B. Within 15 days of the decision, the Dean will transmit the decision and/or recommendations to the student and the person/group responsible for its implementation.

C. The student, Administrative Officer or Opposing Party will receive a copy of the report and recommendations.

D. Recorded grievance proceedings, the petition and other material will be kept in a locked file in the Dean's office for five years.
1.4 GRIEVANCE PROCEDURE REVIEW

A grievance procedure review may be initiated by the student if he/she is not satisfied that the grievance procedures were followed. The student should contact the Graduate Division or the Student Affairs Office of the School in which he/she is registered for counseling about the grievance procedure review. **The student shall be advised that this grievance procedure review is a procedural review to determine whether the procedure set forth in Section 1.3 was followed. This grievance procedure review does not review the merits of the grievance or the findings of the Ad Hoc Committee.**

1.40 Within ten (10) days after receiving the Dean's decision, the student must provide the Chair of the Academic Senate with (1) a written statement specifically citing the procedures set forth in Section 1.3 that the student alleges the University did not follow and (2) all pertinent supporting data and documents. The Chair of the Academic Senate may dismiss the request for review if the student does not comply with the requirements of this section.

1.41 Within ten (10) days after receiving the written request for review and supporting data and documents, the Chair of the Academic Senate will forward a copy of the student's written request for review and supporting data and documents to the Dean of the School or Graduate Division in which the original grievance was conducted. Within ten (10) days after receipt of the student's written request for review and supporting data and documents, the Dean will provide a written response to the Chair of the Academic Senate.

1.42 Within ten (10) days after receiving the Dean's written response, the Chair of the Academic Senate will provide a copy of the response to the student and request that the Chair of the Committee on Committees appoint a three (3) member Senate Ad Hoc Grievance Procedure Review Committee. The members will be selected from a list of Academic Senate members designated at the beginning of the academic year for service on such Senate Ad Hoc Grievance Procedure Review Committees. If a representative from the University's Affirmative Action Office has participated in any phase of the grievance procedure thus far, the Senate Ad Hoc Grievance Procedure Review Committee is charged with seeking continuing staff assistance from the Affirmative Action Office.

1.43 Within ten (10) days after its constitution, the Senate Ad Hoc Grievance Procedure Review Committee will meet to review and decide whether the University followed the procedure set forth in Section 1.3.

1.44 For good cause, the Chair of the Academic Senate may grant reasonable extensions of the time limits specified in the grievance procedure review.

1.45 Senate Ad Hoc Grievance Procedure Review Committee Report

A. Within ten (10) days after meeting to review the procedures, the Senate Ad Hoc Grievance Procedure Review Committee will submit a written report to the Chair of the Academic Senate.
B. Lack of Committee consensus may be accompanied by a majority and a minority report. Each Committee member will sign the report to which he/she subscribes.

1.46 DISPOSITION OF REPORT AND RECOMMENDATIONS

A. Within two (2) days after receiving the report, the Chair of the Academic Senate will transmit the report of the Senate Ad Hoc Grievance Procedure Review Committee to the Dean of the School or Graduate Division.

B. Within fifteen (15) days after receiving the report, the Dean may accept, reject, or modify the Committee's recommended actions.

C. Parties to the complaint and their representatives shall be immediately notified in writing of the Dean's decision and be provided a copy of the report from the Senate Ad Hoc Grievance Procedure Review Committee. The Dean's decision is final and concludes the grievance procedures.

D. Recorded proceedings, the petition and other material will be kept in a locked file for 5 years by the Office of the Academic Senate.