APPENDIX VII DIVISIONAL PROCEDURE FOR STUDENT GRIEVANCE IN ACADEMIC AFFAIRS

1.0 PURPOSE
The purpose of this procedure is to allow for the resolution of student grievances in academic matters 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 – Designee of Dean.
D. AFFIRMATIVE ACTION REPRESENTATION - for technical assistance to all participants in unlawful discrimination complaints.
E. BRIEF – A concise, written summary of facts and arguments in a case.
F. DAYS - The term “days” means working days based on UCSF’s administrative calendar.
G. EMPLOYEE - an individual employed by the University, including a faculty member, who would be the opposing party in an academic matter related to an academic dismissal or to an unlawful discrimination case.
H. EXTENSION OF TIME - upon establishment of cause by either party to the grievance, the Chair of the Academic Senate may grant reasonable extensions of the time limits specified in the appeals procedure.
I. OPPOSING PARTY – employee who is alleged to have engaged in an academic dismissal or unlawful discrimination case.
J. PARTIES – Grievant and the school’s representative for academic dismissals or opposing party (employee) for unlawful discrimination grievances.
K. PREPONDERANCE OF EVIDENCE - such evidence which, when weighed with that opposed, has more convincing force and the greater probability of truth.
L. 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 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.
M. 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.

N. 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.

1.2 PROCEDURES – Informal Procedures

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 either the party alleged to have committed the violation (e.g., course instructor), with 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 in academic matters are appropriate only in those cases in which there is reason to believe there has been bias or wrongdoing on the part of the faculty. It is important to understand that grievances are not the same as disagreements. One cannot grieve an assigned grade, for example, merely because one disagrees with the grade. The purpose of the following procedures is to allow for the resolution of student grievances in academic matters that result in dismissal of students.

1.3 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 School or appropriate Administrative Officer to conduct a formal review.

B. The student will provide the Dean or Administrative Officer with a written statement within 15 days after the student has informed the Dean or appropriate Administrative Officer that he/she wishes a review. This statement will include the specific nature of the grievance, all pertinent supporting data, 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 School’s decision was arbitrary and capricious, and should address each specific reason for the dismissal set forth in the dismissal notice.
C. Upon receiving written request for a review from the student, the Dean or Administrative Officer, within 15 days, will take appropriate action depending upon the nature of the grievance.

1. For a Dismissal Grievance. The Dean or Administrative Officer will convene an Ad Hoc Hearing Committee as soon as reasonable.

2. For a Discrimination Grievance.
   a) The Dean or Administrative Officer will promptly provide the opposing party with the student's written materials and will request written materials from the opposing party involved. The opposing party’s materials will include responses to all points raised in the student's material and other pertinent data. The opposing party will provide the Dean or Administrative Officer with a written statement within 15 days after receipt of the student's materials.

   b) Upon receipt of the opposing party’s statement, the Dean or Administrative Officer will promptly provide a copy of this to the student.

   c) The Dean or Administrative Officer will meet with the student and opposing party involved within 15 days after receipt of material from the opposing party and attempt to resolve the alleged grievance.

   d) In the event that the grievance is still unsuccessfully resolved, the student may request, within 15 days, that the Dean or Administrative Officer convene an Ad Hoc Hearing Committee.

1.31 CHARGE TO THE AD HOC HEARING COMMITTEE
A. The Ad Hoc Hearing Committee shall be composed of three faculty members who are knowledgeable about student education but who have not been involved in the dismissal process or discrimination complaint plus two students.

B. The Chairperson of the Committee is responsible for convening the hearing and informing the principals of the procedures to be followed. The Committee Chair will handle all procedural matters during the pendency of the hearing.

C. Both the student and 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 or the opposing party to appear in person at the hearing will result in suspension of the hearing until relevant parties can be present.

If the Ad Hoc Hearing Committee has determined good cause for postponement, the postponement shall not exceed 20 working days. There may be no more than two postponements.
D. Each party is responsible for the presentation of his/her own position.

E. The student may have a lawyer or other representative present during the hearing(s), at his/her own expense. (The school or opposing party will be represented by University counsel if the student retains legal counsel.) If the student retains an attorney, he/she shall notify the University ten (10) days prior to the prehearing conference or twenty (20) days prior to the hearing.

F. The Committee, the student, and the opposing party may request that other parties present relevant information either in writing or in person at a hearing. The Committee will determine what is relevant information.

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. Unless otherwise agreed by the Parties 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 prehearing conference with the Committee Chair, the Parties and the advocates, 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 both the student and 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 under these procedures 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 discrimination, the Committee will accept evidence and comments by 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 in 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 or Administrative Officer 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. The 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 school 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).

1.33 COMMITTEE REPORT
A. The Committee will meet and submit a written report to the Dean or Administrative Officer no later than 15 days after completion of the hearing(s) or filing of the briefs.

B. In the case of academic dismissal, the report shall contain findings of fact and will uphold or not uphold the dismissal. The action of the School will be upheld if the Committee finds that the student has not met his/her burden and established 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 injury 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 ascribes.

1.34 DISPOSITION OF REPORT AND RECOMMENDATION
A. The Committee will present its written report to the Dean. The Dean or Administrative Officer 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 or Administrative Officer will inform the Ad Hoc Hearing Committee of his/her decision.

B. The Dean or Administrative Officer will transmit the decision and/or recommendations within 15 days after receiving it to the student and the person/group responsible for its implementation.

C. The student, administrative officer and/or opposing party will receive a copy of the report and recommendations.

D. Recorded grievance proceedings will be kept in a locked file in the Dean's or Administrative Officer's office for five years.
1.4 APPEAL PROCEDURE

An appeal procedure may be initiated by the student if he/she is not satisfied that the established procedure has been followed at the School level. The student should contact the Student Affairs Office of the School in which he/she is registered for counseling about the appeals process. The student shall be advised that this appeal is a procedural review whose aim is to determine whether the proper procedures have been followed.

1.40 Within ten (10) working days after receipt of the Dean's or Administrative Officer's determination, the student will provide the Chairperson of the Academic Senate with a detailed statement of the appeal of the School's action and all pertinent data supporting the appeal.

1.41 Upon receiving these written statements from the student, the Chairperson of the Academic Senate, within ten (10) working days, will forward a copy of the student's written appeals statement to the Dean of the School in which the original review was conducted. The Dean or Administrative Officer will provide a written response to the Chairperson of the Academic Senate within ten (10) working days after receipt of the student's written appeals material.

1.42 Upon receipt of the Dean's or Administrative Officer's material, the Chairperson of the Academic Senate, within ten (10) working days, will provide a copy of this to the student.

1.43 The Chairperson of the Academic Senate will then request the Chairperson of the Committee on Committees to appoint within ten (10) working days a three (3) member Senate Ad Hoc Grievance Procedure Review Committee 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 to seek continuing staff assistance from the Affirmative Action Office.

1.44 Within ten (10) working days after its constitution, the Senate Ad Hoc Grievance Procedure Review Committee will meet to review the process and procedure with which the School or administrative unit has dealt with the student's grievance. The Senate Ad Hoc Grievance Procedure Review Committee will review and decide whether the student's grievance has followed the procedure established for handling of grievances at the School level.

1.45 Committee Report

A. The Ad Hoc Grievance Procedure Review Committee will submit the written report to the Chairperson of the Academic Senate within ten (10) working days of its meeting

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

1.46 DISPOSITION OF REPORT AND RECOMMENDATIONS

A. The Chairperson of the Academic Senate will transmit the report of the Ad Hoc Grievance Procedure Review Committee to the Dean of the involved School or the appropriate Administrative Officer within two (2) working days.
B. The Dean or Administrative Officer may accept, reject, or modify the Committee's recommended actions within fifteen (15) working days.

C. Both parties to the complaint and their representatives shall be immediately thereafter notified in writing of the Dean's or Administrative Officer's decision and provided with a copy of the report from the hearing body. The Dean's or Administrative Officer's decision is final and concludes the grievance procedures.

D. Recorded grievance proceedings will be kept in a locked file where other materials and the petition have been placed.