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 – Dean or designee of Dean to represent the School and University.
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 found and the choice made. A clear error of judgment; 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 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 four Schools. This entity has the responsibility for the administration of graduate degree programs and 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. This entity also has responsibility for the appointment of postdoctoral scholars, the academic review of graduate programs, and dispute resolution involving graduate students and postdoctoral scholars.
J. OPPOSING PARTY – employee who is alleged to have engaged in the unlawful discrimination.
K. PARTIES – Grievant and the school’s representative for academic dismissals or Opposing Party (employee) for unlawful discrimination grievances.
L. PREPONDERANCE OF EVIDENCE - such evidence which, when weighed with 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
and procedural 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 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 four professional schools (Dentistry, Medicine, Nursing,
Pharmacy)

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 in academic matters 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 or Administrative Officer (for pre-licensure students) to conduct a formal review. In the case of a graduate student who is affiliated with a School, the Dean of the Graduate Division will request that the Dean of the School conduct the formal review.

B. Within 15 days after the request for a formal review, the student will provide the Dean or Administrative Officer of the School or Graduate Division with a written complaint which includes 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. Within 15 days after receiving the written complaint from the student, the Dean or Administrative Officer 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 within a reasonable time.

2. For a Discrimination Grievance.
   a) The Dean or Administrative Officer will promptly provide the Opposing Party with the student's written complaint and will request a written response from the Opposing Party involved. Within 15 days of receipt of the student's complaint, the Opposing Party will provide the Dean or Administrative Officer with a written response which will include information regarding all points raised in the student's written complaint and any other pertinent data.

b) Upon receipt of the Opposing Party’s written response, the Dean or Administrative Officer will promptly provide a copy to the student.

c) Within 15 days of receipt of the written response from the Opposing Party, the Dean or Administrative Officer will meet with the student and Opposing Party and attempt to resolve the alleged grievance.

d) If the grievance is not resolved, within 15 days, the student may request, the Dean or 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 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. 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 a lawyer or other representative 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 an attorney, he/she shall notify the Chair of the Ad Hoc Hear 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. 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 pre-hearing 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 complaint 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 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 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 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. 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 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 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 ascribes.

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 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. In the case of a graduate student who is affiliated with a School, the Dean of the School will forward the School's recommendation to the Dean of the Graduate Division. In this case, the decision of the Dean of the Graduate Division is final.

B. Within 15 days of the decision, the Dean or Administrative Officer 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 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 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 appeals process. The student shall be advised that this appeal is a procedural review to determine whether the grievance procedures were followed.

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

1.41 Within ten (10) working days of receiving the written statement of the appeal and supporting data, the Chairperson of the Academic Senate will forward a copy of the student's written statement of the appeal and supporting data to the Dean of the School or Graduate Division in which the original review was conducted. Within ten (10) working days after receipt of the student's written appeals material, the Dean or Administrative Officer will provide a written response to the Chairperson of the Academic Senate.

1.42 Within ten (10) working days of receipt the Dean's or Administrative Officer's written response, the Chairperson of the Academic Senate will provide a copy of the response to the student.

1.43 Within ten (10) working days, the Chairperson of the Academic Senate will request the Chairperson 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 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 and decide whether the University followed the grievance procedure.

1.45 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.

1.46 Senate Ad Hoc Grievance Procedure Review Committee Report
A. Within ten (10) working days after meeting to review the procedures, the Senate Ad Hoc Grievance Procedure Review Committee will submit a written report to the Chairperson 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 ascribes.

1.47 DISPOSITION OF REPORT AND RECOMMENDATIONS

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

B. Within fifteen (15) working days of receiving the report, the Dean or Administrative Officer 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 or Administrative Officer's decision and be provided a copy of the report from the Senate Ad Hoc Grievance Procedure Review Committee. The Dean's or Administrative Officer's decision is final and concludes the grievance procedures.

D. Recorded appeal proceedings, the petition and other material will be kept in a locked file for 5 years.