

Part 2 Academic Appeal Procedure.

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2-1-201 Purpose.

The purpose of the procedures outlined below is to provide a means for appealing and resolving disputes concerning an academic decision that a student considers arbitrary, capricious, or contrary to University policy.

- (1) arbitrary: disparate treatment of persons in essentially identical circumstances
- (2) capricious: no discernible relationship between the act or decision complained of and the legitimate interests or considerations affecting or motivating such act or decision
- (3) violations of policy: misinterpretations, misapplications, or violations of authorized University policies.

2-1-202 Relationship to Other Appeals Procedures.

The Academic Appeals Procedure outlined herewith shall be used by students to appeal actions taken according to standards or practices that are specific to course, discipline, program, department, school, or college. Appeals of disciplinary actions taken on the basis of the University Standards of Conduct are subject to the procedures in 2-1-5 Student Conduct.

2-1-203 Rights and Responsibilities.

(a) Student's Right to Academic Counsel. Before a formal appeal, at any time during the process outlined below, the student is encouraged to seek advice from his or her academic advisor, the appropriate Department Chair /School Director, the Graduate Dean / AVP of Undergraduate Studies, or the Dean of Student's Office who will explain the procedure. The student may also identify one person, other than those individuals involved in subsequent appeals, to serve as his or her academic counsel. The academic counsel functions as the student's advisor through the appeals process. In this role, the academic counsel will

- (I) meet with the student and help guide him or her through University procedures;
- (II) discuss with the student the rationale for claiming the decision being appealed was arbitrary, capricious or contrary to University policy; and
- (III) be allowed to be present at any or all required conferences and the hearing before the Hearing Panel (2-1-208).

(b) Faculty Member's Right to Academic Counsel. The faculty member may also identify one person, other than those individuals involved in subsequent appeals, to serve as his or her academic counsel. The academic counsel functions as the faculty member's advisor through the appeals process. In this role, the academic counsel will

- (I) meet with the faculty member and help guide him or her through appropriate University procedures;
- (II) discuss with the faculty member the rationale for claiming the decision being appealed was arbitrary, capricious or contrary to University policy; and
- (III) be allowed to be present at any or all required conferences and the hearing before the Hearing Panel (2-1-208).

(c) Informal Conference with Faculty Member or Departmental, Program Area, or School Committee. It is strongly encouraged that the student contact the faculty member to discuss the academic decision that the student considers arbitrary, capricious, or contrary to University policy before the initiation of the formal academic appeals process. If the student is not satisfied with the outcome of the informal conference with the faculty member, he/she must initiate the appeal in writing with the faculty member. If the student is appealing an action taken by a department, school, or constituent body thereof, it is strongly encouraged that the student contact the Chair of the Department, Program Area, or School committee to discuss the academic decision that the student considers arbitrary, capricious, or contrary to

University policy before the initiation of the formal academic appeals process. If the student is not satisfied with the outcome of the informal conference, he/she must initiate the appeal in writing with the Department Chair or School Director.

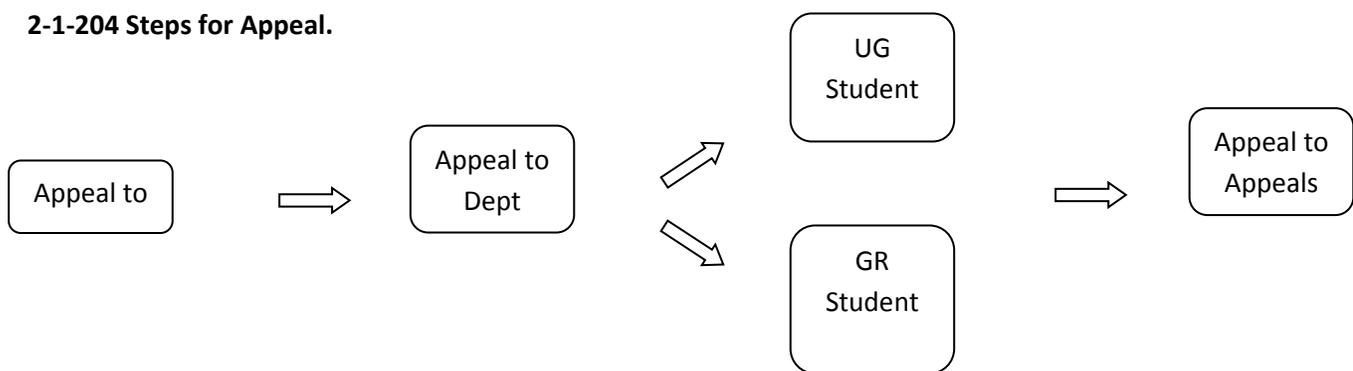
(d) Initiation of Formal Appeal. It is the responsibility of the student to initiate the formal appeals procedure in writing at each level outlined herein. If the student fails to pursue the appeal in the manner stipulated by this policy, after the conference with the appropriate individual identified above, the original academic decision will be final.

(e) Extension of Deadlines. Any party may request in writing an extension of the deadline stipulated in this policy but must demonstrate good cause. The length of such extension shall be appropriate to accommodate the cause of the delay. A student pursuing an appeal who believes that a request for extension has been unreasonably denied may include arguments to that effect in the next stage of the appeal process, if relevant. A student pursuing an appeal who believes that consideration of the appeal is being unduly delayed at any level may appeal to the next level identified in the following procedures.

(f) Provision of Evidence. The student is responsible for providing all evidence on which he or she intends to rely as part of the request for conference or hearing at each stage of the appeal process. The student's selection of evidence, as well as his or her oral and written arguments, should seek to demonstrate why the action being appealed is arbitrary, capricious, or in violation of University policy. Copies of all evidence presented at each stage will be retained by all parties involved in each step of the process.

In cases of grade appeals, at any stage in the appeals process, grade changes can only be made by the faculty member who issued the original grade, provided that the faculty member is still employed by UNC or, as a result of the Hearing Panel's decision as described in 2-1-204(7)(k). In the latter case, any grade change must be consistent with the Hearing Panel's decision. If the faculty member is no longer employed by UNC, then the grade may be changed by the chairperson/director of the department/school where the original grade was issued.

2-1-204 Steps for Appeal.



2-1-204(1) Initial Conference.

2-1-204(1)(a) Appeal Based on Action by Faculty Member. No later than 21 working days after the end of the semester or session in which the action occurred, the student who has a grievance regarding an academic action taken by a faculty member, shall send (by mail or email) a written description of the student's grievance and note how he/she believes the action is arbitrary, capricious, or in violation of University policy. The student may request that a conference take place within seven (7) working days of receipt of the student's written request. The faculty member may request that a conference take place within seven (7) working days of the student's written request before rendering a decision. If the faculty member denies the appeal, a rationale for the decision must be communicated in writing to the student, and must demonstrate how the action was other than arbitrary, capricious, or a violation of University policy.

In the event that the faculty member is not available, due to absence from campus, illness, or non-employed status, to respond to the student's request in a timely manner, the student shall direct the appeal to the Department Chair or

School Director (or designee). In the case of a Department Chair or School Director from a discipline other than that of the faculty member whose action is being appealed, the Director may designate a faculty member from the relevant program area to consider the appeal. To the extent possible, the Department Chair or School Director (or designee) will obtain information from and discuss the appeal with the faculty member who assigned the grade or whose action is addressed in the student's appeal before making a final decision on the appeal. The Department Chair or School Director (or designee) shall have seven (7) working days to render a decision.

If the faculty member whose action is being appealed is also the Department Chair or School Director, the student shall begin the appeal process as in 2-1-204(3) by requesting a conference with the Dean of the faculty member's college.

2-1-204(1)(b) Appeal Based on Action by Departmental, Program Area or School Committee. If the student is appealing an action taken by a Department, School, or constituent body thereof, the student shall begin the appeal process as in 2-1-203(2) below by requesting a conference with the Department Chair or School Director.

In the case of an appeal of a program area termination decision, the student shall begin the appeal process as in 2-1-203(3) below by requesting a conference with the Dean of the College in which the undergraduate program is housed or, in the case of graduate programs, with the Dean of the Graduate School.

2-1-204(2) Conference with the Department Chair or School Director. If the student does not believe that the initial informal conference or formal written appeal with the faculty member has resolved the problem, he or she may request a conference with the faculty member's Department Chair or School Director. The student shall submit in writing a description of the problem or grievance and note how the action is arbitrary, capricious, or in violation of University policy. Additionally, the student should indicate if a conference with the faculty member was sought and if that conference occurred. In the case of a Department Chair or School Director who is not in the same discipline as the faculty member whose action is being appealed, the Department Chair or School Director will designate a faculty member in the same discipline to hear the student's appeal at this level. The student is responsible for initiating this conference within seven (7) working days of the faculty member's response if he or she wishes to pursue the appeal further. The conference shall take place within seven (7) working days of receipt of the student's request. The Department Chair or School Director (or designee) shall additionally confer with the faculty member whose action is being appealed. The Department Chair or School Director may uphold or nullify the initial action, may recommend remedies, may remand the case to the faculty member, or may refer it directly to the College or Graduate Dean, as appropriate. The Department Chair or School Director (or designee) shall render a written decision regarding the student appeal within seven (7) working days of the conference, and forward copies of the decision, along with rationale based on whether the faculty member's action was arbitrary, capricious, or a violation of University policy, to the student, the faculty member, and the College or Graduate Dean (or designee), as appropriate.

In cases of grade appeals, if the chairperson/director believes the faculty member has acted in an arbitrary or capricious manner, the chairperson/director must contact the faculty member and **40**

recommend reconsideration of the grade. If the faculty member does not agree to change the grade, the student may continue the process at the next level.

2-1-204(3) Conference with the College Dean or the Dean of the Graduate School. If the student does not believe that the conference with the Department Chair or School Director has resolved the problem, or if the student is appealing termination from an academic program, an undergraduate student may request a conference with the Dean of the College where the program of study is housed. The Dean may appoint a designee to act throughout in his/her stead. A graduate student may request a conference with the Dean of the Graduate School within seven (7) working days after the notification of the Department Chair's or School Director's (or his/her designee's) decision.

The student shall submit in writing a description of the problem or grievance and note how the action is arbitrary, capricious, or in violation of University policy. Additionally, the student should indicate if a conference with the faculty member and/or Department Chair or School Director was sought and if those conferences occurred. The conference shall take place within seven (7) working days of receipt of the student's request. The Dean may additionally confer with

the faculty member or program area whose action or policy is being appealed. The Dean may uphold or nullify the initial action, may recommend remedies, or may remand the case to the faculty member, as appropriate. The Dean must render a decision within (7) working days of the conference, and forward copies of the decision, along with rationale based on whether the faculty member's action was arbitrary, capricious, or a violation of University policy, to the student, the faculty member, and the Department Chair or School Director, as appropriate.

In cases of grade appeals, if the Dean believes that a grade change is warranted, the Dean must contact the faculty member to explain the decision and recommend the grade change. If the faculty member does not agree to change the grade, the student may continue the process at the next level.

2-1-204(4) Request for Academic Appeals Board ("AAB") Hearing. If the student is not satisfied with the decision rendered by the Dean, the student may file a request to the Chair of the AAB for a formal hearing. The request for a hearing before the AAB must be submitted within seven (7) days of receipt of the Dean's decision.

(a) Academic Appeals Board Membership. The AAB shall be composed of

(I) five (5) faculty members appointed by the Faculty Senate;

(II) five (5) members of the Graduate Faculty appointed by the Graduate Council, at least 2 of whom shall have doctoral research endorsement status.

(III) five (5) undergraduate students appointed by the Student Senate; and

(IV) five (5) graduate students appointed by the Graduate Student Association (GSA);

(V) a Chair, who shall be appointed by the CAO and approved by majority votes of the Faculty Senate and Student Senate.

AAB members shall serve one-year terms and may be reappointed. The Chair shall serve a two-year term and may be reappointed. In appointing members to the AAB, the Faculty Senate, Graduate Council, Student Senate, and Graduate Student Association shall strive for maximum diversity in terms of college representation and, in the case of faculty, rank. Appointments must be made by November 1st of each year. If the Faculty or Student Senates fail to make appointments in a timely manner, the CAO will make temporary faculty or undergraduate student appointments as appropriate, and the Dean of the Graduate School will temporarily appoint graduate students to the AAB if the GSA does not provide appointments in a timely manner.

(b) Within fourteen (14) working days of receipt of the student's request for formal hearing, the Hearing Panel will be established by the Chair. In case of an appeal from an undergraduate student, the Hearing Panel shall consist of the five (5) undergraduate students appointed by the Student Senate, as well as the five (5) faculty members chosen by the Faculty Senate. In the case of an appeal from a graduate student, the Hearing Panel will consist of five (5) graduate students appointed by the Graduate Student Association (GSA), as well as the five (5) members of the Graduate Faculty chosen by the Graduate Council, to hear the case. The ten (10) members selected, as well as the Chair, shall constitute the Hearing Panel for the case. All eleven (11) members of the Hearing Panel shall retain a vote. The Chair shall forward the names of those selected to the student and the student's College Dean.

(c) In the event of the Chair's recusal or incapacity, the CAO may select an alternate Chair from the membership of the AAB.

(d) Within seven (7) working days of notification of the membership of the Hearing Panel, either party may object to the selection of any Hearing Panel member in writing to the Chair to the selection of any Hearing Panel member. Objections may be made only on the basis of perceived conflicts of interest. Within seven (7) working days of receipt of any objections, the Chair shall either replace the member(s) objected to, or retain the member(s) and refer the question of

conflict of interest to the CAO. The CAO may uphold the Chair's selection or require replacement(s) for the member(s) objected to. The CAO's decision is final.

(e) In the event that the Chair must find a replacement for any member objected to, or due to a member's recusal or incapacity, the Chair shall request that a replacement be chosen by the group who appointed the recused or incapacitated member.

(f) Procedure for Appeals Brought During a Non-Contractual Period. The Assistant Vice President for Undergraduate Studies or the Dean of the Graduate School will be the sole determiner as to whether the appeal will be heard during the non-contractual period. If it is determined that the hearing should not take place during the non-contractual period, the appeal will be heard during the next semester. Otherwise, the Assistant Vice President for Undergraduate Studies or the Dean of the Graduate School will appoint an ad hoc chair of the appeals board who will establish the Hearing Panel in accordance with section 2-1-204(4) (b). The faculty members of the Panel must be approved by the Executive Committee of the Faculty Senate. The student members of the Panel must be approved by the Student Body President or GSA President. The appeal will be heard within seven working days. Should the Chair be unable to establish a Hearing Panel, the appeal will be heard at the beginning of the next semester.

2-1-204(5) Preliminary Evaluation of Case by Hearing Panel.

The Chair shall call a meeting of the Hearing Panel for a preliminary evaluation of the student's case, which shall take place no later than twenty-one (21) working days after the deadline for filing objections to the Hearing Panel members, or the resolution of any such objections, whichever occurs later. The Chair shall solicit written arguments and supporting documentation from both sides, and forward all items received to the members of the Hearing Panel in a timely manner. A quorum for the preliminary evaluation shall consist of the Chair, three (3) faculty members, and three (3) undergraduate or graduate students depending upon whether the Hearing Panel is deliberating an undergraduate or a graduate student appeal.

The preliminary evaluation will be conducted in closed session, without representation from either party. Following discussion, the members of the Hearing Panel shall vote as to whether there was *prima facie* evidence that the action being appealed was arbitrary, capricious, or in violation of University policy. If three (3) or more members of the Hearing Panel vote that there was *prima facie* evidence that the action appealed was arbitrary, capricious, or in violation of University policy, the appeal will be heard. Otherwise the appeal will be dismissed. The Hearing Panel's vote is final.

2-1-204(6) Preparations for the Hearing.

(a) Notice of Hearing. If the Hearing Panel votes to hear the appeal, the Chair shall notify the parties in writing of the time, date, and place of the hearing. The Chair shall make a good faith effort to schedule the hearing in a manner that accommodates the schedules of all parties. The hearing shall occur no later than thirty (30) working days after the vote in favor of hearing the appeal.

(b) Pre-Hearing Disclosure. The written notice of hearing shall require the student and the faculty member and/or program area or school to provide to the Chair, at least ten (10) working days prior to the date of hearing, all documents which contain, and the names and current addresses of all persons who have, relevant knowledge of facts relating or pertaining to the issues in contention as identified by the student in his or her request for a formal hearing. Upon receipt of the written submission from the student, and the faculty member and/or program area or school, the Chair shall transmit to each party copies of documents and identities of persons provided by the other party.

(c) The student and the faculty member and/or program area or school shall provide the Chair with the names of the persons identified in their respective submissions described in the immediately preceding subsection who they wish to call as witnesses, or who they wish to produce documents, at the hearing. The Chair shall notify all such persons and shall arrange for the appearance of such witnesses at the hearing if possible, or alternatively, shall otherwise attempt to solicit written statements from them. The Chair shall also collect all documents so identified prior to the hearing and have them marked and made available for each Hearing Panel member's review prior to and during the hearing.

2-1-204(7) Hearing Procedure.

(a) General Considerations. The hearing will be informal. The Chair of the Hearing Panel will preside over the hearing. The student and the faculty member and/or program area or school shall have the opportunity to present testimony of witnesses and to submit documents. The Chair shall conduct the hearing in a manner that allows the orderly presentation of testimony and documents but is not required to follow rules of evidence and procedure utilized in a court of law. To protect the student and the faculty member or program area or School, the hearing shall be closed to third persons and the information presented at the hearing shall not be provided to third persons except to the extent required to effectuate the decision of the Hearing Panel. Parties involved in the appeal have the right to attend the entire hearing, and to challenge testimony and evidence, and to be assisted and/or advised by Academic Counsel of his/her/its choosing (who is not called as a witness in the hearing) as described in 2-1-203(a)(iii) and (b)(iii), but the student and faculty member and/or program area or school shall be the only persons who will present their respective positions and arguments to the Hearing Panel.

(b) Quorum. A quorum of the Hearing Panel shall consist of the Chair, at least three (3) faculty members, and at least three (3) undergraduate or graduate students depending upon whether the AAB is deliberating an undergraduate or a graduate student appeal.

(c) Record. A record of the proceeding will be made and consist of a recording of the hearing, all documents presented, and the Hearing Panel's written decision.

(d) Burden of Proof. The burden of proving an assertion rests on the person making the assertion.

(e) Relevance of arguments and evidence. The Hearing Panel is not bound to examine any evidence, or consider any argument that it does not regard to be relevant to the issues in the case. If during the course of the hearing the Hearing Panel identifies evidence, facts, or issues that it determines relevant, it shall consider them even if they were not raised by either of the parties. Both parties shall be given an opportunity to examine, consider, and respond to such evidence, facts, or issues.

(f) Preliminary Statement. The Chair of the Hearing Panel shall call the hearing to order, identify the issues and parties involved and give an overview of the hearing process.

(g) Presentation of Evidence. The presentation of evidence shall generally proceed in the following order:

(I) initial presentation by the student;

(II) initial presentation by the faculty member, program area or School and/or College;

(III) interrogation of both sides, as well as of any witnesses called by the Hearing Panel;

(IV) rebuttal presentation by student, if requested;

(V) deliberation by the Hearing Panel.

The presentation of oral testimony by a witness need not be by formal interrogation. A witness may simply be asked to disclose all testimony he or she has that relates to the issue in dispute. The Hearing Panel may reject what it deems to be unreliable, irrelevant, or cumulative testimony or documents. The Hearing Panel may interrogate a witness at any time on any subject it deems relevant. The Hearing Panel may sequester non-party witnesses (i.e., those other than the student and the faculty member and/or program area or school). Documentary evidence may be accepted without a testimonial foundation, but the Hearing Panel should be careful to ensure the authenticity of all documents. Sworn statements of persons should not be used as a substitute for testimony at the hearing unless the witness is unavailable due to reasons beyond the witness' and the Hearing Panel's control.

(h) Questioning of Witnesses. Both parties may call any witness identified by the parties in their pre-hearing submissions for examination and the other party shall have the opportunity to question any witness called during the hearing. In addition, the Hearing Panel may ask relevant questions of any witness during the hearing.

(i) Closure. The Hearing Panel may adjourn the hearing to a later date if necessary to receive further relevant evidence. After such additional evidence is received, the Hearing Panel shall close the hearing.

(j) Deliberation. The Hearing Panel shall deliberate promptly after the closure of the hearing, shall render a decision, and the Chair shall distribute that decision in writing to the student, the faculty member or entity whose action is being appealed, the relevant School Director and Dean, the Graduate Dean (in graduate student appeals), the AVP for Undergraduate Studies, the Dean of Students (in undergraduate student appeals), and the CAO within seven (7) working days of the conclusion of deliberations and final vote(s).

(k) Decision. The Hearing Panel's written decision shall contain findings of relevant facts established by a preponderance of the evidence, as determined by two-thirds vote of the members of the Hearing Panel. The decision shall also state separately each conclusion reached by the Hearing Panel based upon the facts found. The conclusions must logically follow from the facts and must relate to the standards of review; i.e., arbitrariness, capriciousness, violations of policy. The Hearing Panel shall not disclose individual voting positions or any dissenting opinion(s).

In cases other than grade appeals, the decision shall state the Hearing Panel's decision regarding the appeal. If a two-thirds vote of the Hearing Panel supports the student's contention, the Hearing Panel shall have the authority to reverse the decision of the program area or school or faculty member, and to direct appropriate action necessary to implement such reversal. The decision of the Hearing Panel is final.

In cases of grade appeals, if the Hearing Panel determines that a grade change is warranted, the Chair must contact the faculty member to explain the decision and recommend the grade change. If the faculty member does not agree to change the grade, the Chair will remand the appeal to the department/school to determine the grade within five (5) working days. Any grade changes must be consistent with the Hearing Panel's decision. The Hearing Panel will submit a written report with the appropriate form(s) to the Registrar's office with the final grade determination.

(l) Disposition of Records. After the Hearing Panel's decision is distributed to the student and faculty member and/or program area or school, the Chair shall forward all records of the hearing, as well as a copy of the decision, to the CAO. Except when required by a legally valid subpoena, access to records will be confined to authorized University personnel who require access in connection with the performance of their duties.