

UNIVERSITY OF  
**NORTHERN COLORADO**

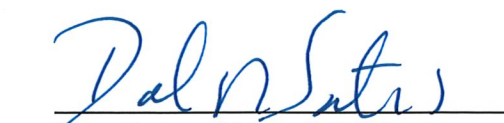
**BOARD OF TRUSTEES AGENDA ITEM**

Meeting Date: June 12, 2020	
<input checked="" type="checkbox"/> Action Item <input type="checkbox"/> Discussion Item <input type="checkbox"/> Information Item	
<b>Name of Item:</b>	<b>Board Policy Manual Amendment – Section 2-1-201 to 204 (Academic Appeal Procedure)</b>

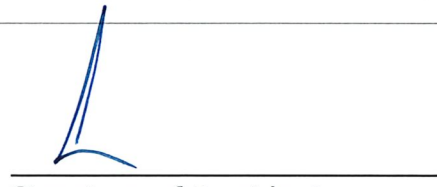
Responsible Staff Member: Dan Satriana

<p><b>Summary of Issue:</b> Recommend approval of amendments to academic appeal procedure to clarify language of the procedure and reduce time to complete appeals.</p>
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Recommended Action by BOT:	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> No Action Needed
Change to Board Policy Manual:	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> No Action Needed
	If yes, Section: 2-1-201 to 204
<b>Administrative Recommendation (Motion):</b> Approve change to Board Policy Manual	

  
\_\_\_\_\_  
Signature of Vice President

6/4/20  
Date

  
\_\_\_\_\_  
Signature of President

6/4/2020  
Date

SENATE ACTION FORM

No. 1176

Subject: Academic Appeals Procedure

Reference to Senate Minutes dated: 2/24/2020

Senate Action:

MOTION: It is moved to approve the changes to the Academic Appeals Procedure as presented.

VOTE: Approved by voice vote

Response requested:

- Approval for placement in University Catalog
- Approval for placement in University Regulations
- Recommendation to Board for placement in Board Policy Manual
- None (sent as information item)
- Other action requested/comments:

*Stan Luger*

2/28/2020

Faculty Senate Chair

Date

\* \* \* \* \*

Administrative review of Senate action (unnecessary for information items):

Reviewed by VPAA/Provost. Check  if comments attached *Mark R. Anderson*

Reviewed by General Counsel. Check  if comments attached *DNSJ, 5/18/20 recommend approval*

Presidential action:

Approve  Reject  Return to Senate for discussion/modification (comments attached)

*L*

05/20/2020

President/Designated Administrative Officer

Date

Date of Board approval (if applicable): \_\_\_\_\_

**PLEASE RETURN SIGNED ORIGINAL AND ATTACHMENT TO THE FACULTY SENATE OFFICE, BOX 75.**

Attachment to Senate Action #1176  
Approved by the Faculty Senate  
February 24, 2020

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**Preface from APC**

- This document replaces the existing Board of Trustees policy (Title 2, Article 1, Part 2).
  - The APC has addressed the following details in its review of the previous policy:
    - Clarification of language to make the text more consistent and clear.
    - New calculation of the calendar of actions to be taken in all phases of the appeal process. In particular, this meant reducing the length of time between procedures, and the adherence to a regular schedule of “university working days” to help appellants prepare for their cases.
    - Establishment of a timely conclusion of all procedures, with the hope that these could be resolved within one academic year.
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**REMOVE CURRENT POLICY**

**Part 2 Academic Appeal Procedure.  
Part 2 Academic Appeals.**

**~~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.

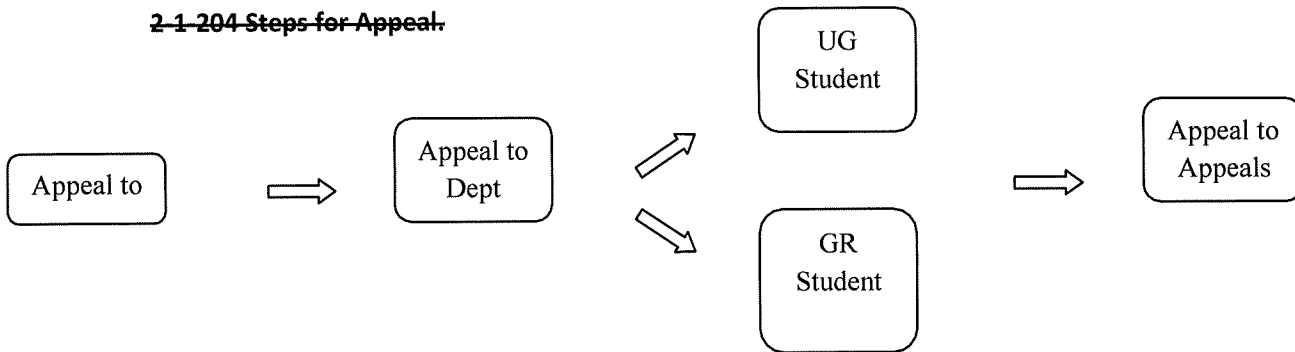
**(d) Initiation of Formal Appeal.** It is the responsibility of the student to initiate the formal appeals procedure in writing at each level outlined herein. If the student fails to pursue the appeal in the manner stipulated by this policy, after the conference with the appropriate individual identified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

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NEWLY APPROVED VERSION

**Part 2 Academic Appeal Procedure.**  
**Part 2 Academic Appeals.**

**2-1-201 Purpose.**

The purpose of the Academic Appeals Process ("AAP") described below is to provide a means for appealing and resolving disputes concerning an "Academic Decision" (defined as a final course grade or the termination of a student's program) that the affected student considers "arbitrary," "capricious," or a "violation of University policy." These terms are defined as follows:

- (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; and
- (3) violation of University policy: misinterpretations, misapplications, or violations of authorized University policies.

In the AAP, the student, faculty member, Department, School or Program Area Committee may be referred to severally or collectively as the "parties" and any one of them may be referred to as a "party."

"Working Days," as used in this University Regulations, means all days other than (a) those designated as "university holiday," "university closed" or "spring break" on the UNC Calendar maintained on the University website, (b) the days following the last day of classes of the fall semester and prior to the first day of classes of the spring semester, (c) the days following the last day of classes of the spring semester and prior to the first day of classes of the fall semester of the following academic year, and (d) Saturdays and Sundays.

**2-1-202 Relationship to Other Appeals Procedures.**

The AAP shall be used by students to appeal actions taken according to standards or practices that are specific to a course, discipline, program, department, school, or college.

The AAP may not be used to appeal decisions pursuant to the University's Student Code of Conduct.

## **2-1-203 Rights and Responsibilities.**

(1) **Informal Communication with Faculty Member, Department, School or Program Area Committee.** Prior to submitting an appeal under the AAP, the student is encouraged to discuss the Academic Decision with which they disagree in an informal communication with the faculty member and/or the Department, School or Program Area Committee (collectively "DSPAC") who made the Academic Decision.

(2) **Initiation and Maintenance of Formal Appeal by the Student.** If the student is not satisfied with the outcome of the informal communication and they want to initiate the AAP, they must do so in writing with the faculty member or appropriate DSPAC Chair/Director, as the case may be. It is the responsibility of the student to initiate the formal appeals procedure in writing at each level described in the AAP. If the student fails to initiate or maintain their appeal as required by this policy, the Academic Decision with which the student disagrees shall be final and not subject to further appeal.

(3) **Written Submission Under the AAP.** All written submissions under the AAP must be submitted to the required recipients to their University email addresses.

(4) **Student's Right to Academic Counsel.** At any time during the AAP, the student is encouraged to ask questions they have about the AAP to their academic advisor, the appropriate DSPAC Chair/Director, the Dean of their College, the Graduate Dean/AVP of Undergraduate Studies, and/or the Dean of Students. The student may also designate one person (who has not served on a prior academic appeal board regarding the student) to serve as their academic counsel. The academic counsel functions as the student's advisor through the appeals process and, as such, shall provide the following assistance:

(a) help guide the student through the AAP including but not limited to discussing whether the decision being appealed was arbitrary, capricious or a violation of University policy; and

(b) except for a Preliminary Review pursuant to 2-1-204(5), be present at all required conferences and the hearing before the Hearing Panel (2-1-208).

(5) **Faculty Member's or DSPAC's Right to Academic Counsel.** The faculty member or DSPAC may each designate one person (who has not served on a prior academic appeal board regarding the student) to serve as their respective academic counsel. The academic counsel functions as the faculty member's advisor through the appeals process and, as such, shall:

(a) help guide them through the AAP including but not limited to discussing whether the decision being appealed was arbitrary, capricious or in violation of University policy; and

(b) except for a Preliminary Review pursuant to 2-1-204(5), be present at all required conferences and the hearing before the Hearing Panel (2-1-208).

(6) **Extension of Deadlines.** At any stage of the AAP, any party may request an extension of any deadline described in this policy by submitting, prior to the deadline, a written request to the individual or body involved in that phase of the appeal process. Any deadline under this policy may be shortened or extended in order to prevent manifest injustice to one or more of the parties or other participants as determined by the individual or body to whom the request is made. The individual or body to whom such a request is made must act on it no later than five (5) working days after receipt of the request.

(7) **Provision of Evidence.** The respective parties are responsible for providing the evidence on which they intend to rely at each stage of the AAP. Evidence submitted, and any oral and written arguments, should be directed to the issue of whether the action being appealed is arbitrary, capricious, or a violation of University policy. Copies of all physical evidence presented at each stage of the AAP shall be retained by the individual or body who shall issue a decision in that stage of the AAP. Such evidence and the written decision shall be provided to the individual or body in the next step of the AAP should the student choose to proceed.

(8) **Grade Changes During AAP.** During the AAP, grade changes can only be made:

(a) by the faculty member who issued the original grade, provided that the faculty member is still employed by UNC;

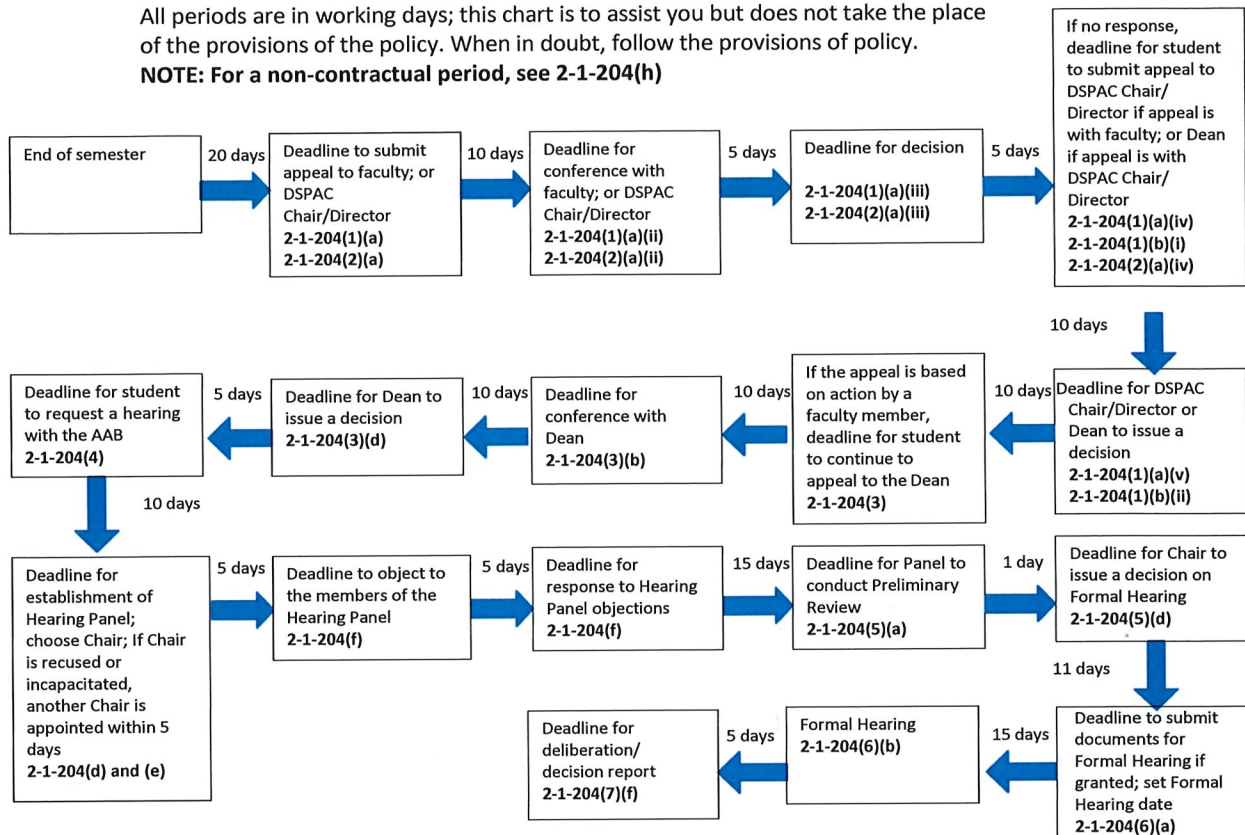
(b) by the DSPAC Chair/Director to which the faculty member who issued the original grade was assigned, only if the faculty member is no longer employed by UNC; or

(c) by the Registrar, as a result of the Hearing Panel's decision as described in 2-1-204(6)(k) and, in such case, the grade change must be consistent with the Hearing Panel's decision.

## **2-1-204 Steps for Appeal.**

All periods are in working days; this chart is to assist you but does not take the place of the provisions of the policy. When in doubt, follow the provisions of policy.

**NOTE: For a non-contractual period, see 2-1-204(h)**



## 2-1-204(1) Appeal Based on Action by a Faculty Member.

(a) **Initiation of Appeal Based on Action by a Faculty Member.** No later than twenty (20) working days after the day grades are due at the end of the semester or session in which the academic action occurred, the student shall submit their written appeal to the faculty member.

(i) The written appeal shall describe how the Academic Decision is arbitrary, capricious, or a violation of University policy.

(ii) The faculty member shall schedule a conference with the student within ten (10) working days after the faculty member's receipt of the appeal. At the conference, the student and faculty member shall discuss the student's written appeal. If a resolution of the appeal is reached as a result of the conference, then the student and faculty member shall prepare a written document that describes the terms of the resolution, shall sign the document confirming the resolution achieved, and shall take all actions necessary to implement the resolution. When the resolution document is signed, no further appeal proceedings under the AAP will occur.

(iii) If the conference does not result in a resolution of the matter, no later than five (5) working days after the conference, the faculty member shall issue a written decision on the student's appeal. The decision shall state whether the Academic Decision was arbitrary, capricious, or a violation of university policy and the reasons for the determination.

(iv) If the faculty member does not issue a decision within five (5) working days after the conference, the student may submit their appeal to the DSPAC Chair/Director no later than ten (10) working days after the conference. If the student does not do so, the appeal shall be considered withdrawn and the Academic Decision which was the subject of the AAP shall be final and not subject to further appeal.

(v) If the DSPAC Chair/Director is from a discipline other than that of the faculty member whose action is appealed, the DSPAC Chair/Director may designate a faculty member from the relevant program area to consider the appeal. The DSPAC Chair/Director, or their designee may request information from and discuss the appeal with the faculty member whose Academic Decision has been appealed. The DSPAC Chair/Director shall have ten (10) working days from the date the student submits the appeal to issue a written decision as described in subsection (iii), above.

(vi) If the faculty member whose Academic Decision 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.

**(b) Conference with the Department Chair, School Director, or Program Area Committee Chair.** If the student does not believe that the faculty member's decision described in 2-1-204(1)(a)(iii), above, has resolved the appeal, or a decision is not issued within the time required in 2-1-204(1)(a)(iv), above, the student may request a conference with the faculty member's DSPAC Chair/Director Chair.

(i) Within five (5) working days, the student shall submit to the DSPAC Chair/Director their appeal referenced in 2-1-204(1)(a), as well as the decision, if any issued by the faculty member. The DSPAC Chair/Director shall confer with the faculty member whose Academic Decision is being appealed. The DSPAC Chair/Director may affirm or reverse the faculty member's decision or may recommend a resolution to the parties for their consideration.

(ii) The DSPAC Chair/Director shall issue a written decision to the parties within ten (10) working days from the date the student submits their appeal as described in 2-1-204(1)(b)(i), above. The decision shall state whether the



Academic Decision was arbitrary, capricious, or a violation of University policy and the reasons for the determination.

**2-1-204(2) Appeal Based on Academic Decision by DSPAC.**

**(a) Initiation of Appeal Based on Action by a DSPAC.** No later than twenty (20) working days after the day grades are due at the end of the semester or session in which the Academic Decision occurred, the student shall submit their written appeal to the DSPAC Chair/Director.

(i) The written appeal shall describe how the DSPAC's Academic Decision is arbitrary, capricious, or a violation of University policy.

(ii) The DSPAC Chair/Director, as the case may be, shall set a conference with the student within ten (10) working days after the receipt of the appeal. At the conference, the student and the other party shall discuss the student's written appeal. If a resolution of the appeal is reached as a result of the conference, then the student and the other party shall prepare a written document that describes the terms of the resolution, shall sign the document confirming the resolution achieved and shall take all actions necessary to implement the resolution. When the resolution document is signed, no further appeal proceedings under the AAP will occur.

(iii) If the conference does not result in a resolution of the matter, no later than five (5) working days after the conference, the DSPAC Chair/Director, as the case may be, shall issue a written decision on the student's appeal. The decision shall state whether the Academic Decision was arbitrary, capricious, or a violation of University policy and the reasons for such determination.

(iv) If a written decision is not issued within five (5) working days after the conference, the student may submit their appeal to the College Dean or Dean of the Graduate School, as the case may be, no later than ten (10) working days after the conference. If the student does not do so, the appeal shall be considered withdrawn and the action which was the subject of the AAP shall be final and not subject to further appeal.

**2-1-204(3) Conference with the College Dean or the Dean of the Graduate School.** If the student does not believe that the decision referenced in 2-1-204(1)(b)(ii) or (2)(a)(iv), above, has resolved the appeal, then the student may request a conference with the appropriate Dean no later than ten (10) working days after the decision of the DSPAC Chair/Director. An undergraduate student should request a conference with the Dean of the College in which the program of study is housed and a graduate student should request a conference with the Dean of the Graduate School, or their respective designee.

(a) Within the period stated in 2-1-204(3), above, the student shall submit to the appropriate Dean their appeal referenced in 2-1-204(1)(a) or (2)(a), above, as well

as the decision, if any, issued by the other party. In this submission, the student shall also describe how the decision previously issued did not resolve the appeal satisfactorily. If the student does not do so, the appeal shall be considered withdrawn and the action that was the subject of the appeal shall be final and not subject to further appeal.

(b) The appropriate Dean shall set a conference with the student that shall occur no later than ten (10) working days from the student's submission described in 2-1-204(3)(a), above.

(c) The Dean shall confer with the party whose decision is being appealed.

(d) The Dean shall issue their decision within ten (10) working days of the conference referenced in 2-1-204(3)(a), above, and submit their decision to all parties involved in the appeal. The decision shall state whether the Academic Decision was arbitrary, capricious, or violated university policy and the reasons for such determination.

**2-1-204(4) Request for Academic Appeals Board Hearing.** If the student is dissatisfied with the outcome of the appeal review, they may submit a request to the Chair of the Academic Appeals Board (AAB) for a formal hearing. The request for a hearing before the AAB must be submitted within five (5) working days after the Dean's decision is issued as described in 2-1-204(3)(d), above.

(a) The AAB Hearing Panel shall be comprised of:

(i) In the case of an appeal submitted by an undergraduate student, five (5) faculty members appointed by the Faculty Senate and five (5) undergraduate students appointed by the Student Senate;

(ii) In the case of an appeal submitted by a graduate student, five (5) members of the Graduate Faculty appointed by the Graduate Council (at least two (2) of whom shall have doctoral research endorsement status) and five (5) graduate students appointed by the GSA;

(iii) And, in either case, a Chair, who shall be appointed by the Chief Academic Officer/Provost ("CAO") and confirmed by majority vote of each of the Faculty Senate and Student Senate.

(b) AAB members shall serve one-year terms and may be reappointed. The Chair shall serve a two-year term and may be reappointed, and re-approved by Faculty Senate/Student Senate. In appointing members to the AAB, the Faculty Senate, Graduate Council, Student Senate, and GSA shall strive for maximum diversity in terms of college representation and, in the case of faculty, rank.

(c) Appointments shall be made by the end of the spring semester. If the Faculty Senate or Student Senate does not make appointments in a timely manner, the CAO shall make temporary faculty or undergraduate student appointments to the AAB as appropriate. If the GSA does not make appointments in a timely manner, the Dean of the Graduate School shall make temporary graduate student appointments as appropriate.

(d) In the event of the Chair's recusal or incapacity, the CAO, from the membership of the AAB, shall appoint a new Chair within five (5) working days.

(e) Within ten (10) working days of receipt of the student's request for a formal hearing, the Hearing Panel shall be established by the Chair. All members of the Hearing Panel present at the hearing shall be voting members. The Chair shall forward the names of those selected to the student and the student's College Dean.

(f) Within five (5) working days after notification of the membership of the Hearing Panel, either party may submit a written objection to the selection of any Hearing Panel member to the Chair. Objections may be made only on the basis of alleged conflict of interest of the member. Within five (5) working days after submission of any objection(s), the Chair shall either replace the member(s) to whom an objection has been submitted or retain the member(s) and refer the question of conflict of interest to the CAO. The CAO may uphold the Chair's decision or require replacement(s) for any of the member(s) about whom objection has been submitted. The CAO's decision is final.

(g) In the event the Chair must replace any Hearing Panel member because of an objection or a member's recusal or incapacity, the Chair shall request that a replacement be chosen by the group who appointed that member.

(h) The appropriate Dean shall determine, in their sole discretion, whether AAB Hearing Panel proceedings shall be held during a non-contractual period. If it is determined that Hearing Panel proceedings shall not be held during a non-contractual period, such proceedings shall occur during the next semester. If it is determined that Hearing Panel proceedings shall be held during a non-contractual period, the appropriate Dean shall appoint an ad hoc chair of the Hearing Panel. The faculty members of the Hearing Panel must be approved by the Executive Committee of the Faculty Senate. The student members of the Hearing Panel must be approved by the Student Senate President or GSA President. If the ad hoc Chair cannot establish a Hearing Panel during a non-contractual period, the Panel shall be established within the first five (5) working days of the next semester. If the ad hoc Chair can establish a Hearing Panel during a non-contractual period, the Hearing Panel proceedings shall be scheduled no later than seven (7) calendar days prior to the end of the non-contractual period. With respect to any Hearing Panel proceedings held during a non-contractual period, the time periods in 2-1-204(5), (6), and (7) that are calculated in working days are modified such that for every five (5) working days, seven (7) calendar days are allotted. (Examples: fifteen (15)

working days become twenty-one (21) calendar days; eleven (11) working days become fifteen (15) calendar days).

#### **2-1-204(5) Preliminary Review of Student's Request for Formal Hearing.**

(a) No later than fifteen (15) working days after the deadline for filing objections to the Hearing Panel members, or after the date on which any objections are resolved, whichever occurs later, the Hearing Panel shall meet to conduct a Preliminary Review of the student's request for a formal hearing. The Preliminary Review meeting shall occur in closed session. No persons other than the Chair and the Hearing Panel members shall be allowed to attend.

(b) The Chair shall request written statements, that may include supporting documentation, from the parties in support of their respective positions and shall set a deadline for the submission of such written statements. The Chair shall forward promptly to each member of the Hearing Panel the written statements received.

(c) A quorum for purposes of the Preliminary Review shall consist of the Chair, at least three (3) faculty members and at least three (3) student members of the Hearing Panel.

(d) At the Preliminary Review, the Hearing Panel shall decide whether there is prima facie evidence that the Academic Decision that is the subject of the appeal was arbitrary, capricious, or a violation of University policy. If three (3) or more members of the Hearing Panel believe that prima facie evidence exists that the Academic Decision was arbitrary, capricious, or a violation of University policy, the student's appeal shall proceed to formal hearing. If not, the matter shall not proceed to formal hearing, the student's appeal shall be dismissed, and no further proceedings under the AAP shall occur. The decision of the Hearing Panel is final and not subject to further review. The Chair shall inform the parties of the Hearing Panel's decision pursuant to 2-1-203(3) no later than one (1) working day after the decision is made.

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

(a) If the Hearing Panel decides pursuant to 2-1-204(5)(d) that the student's appeal shall proceed to formal hearing, within eleven (11) working days after such decision, each party shall submit the following to the Chair and to all other parties:

(i) All documents and other materials that the party may seek to introduce at the formal hearing; and

(ii) The name, address and contact information (email and phone) of each person who the party may call as a witness at the formal hearing,

together with a description of the subject matter to which the witness is expected to testify.

(b) The Chair shall set the date, time, and place of the formal hearing, and shall make a good faith effort to set the formal hearing in a manner that accommodates the schedules of all parties. The formal hearing shall occur no later than fifteen (15) working days after the items described in subsection (a), above, have been submitted by the parties within the required deadline. No materials may be submitted after the deadline stated in subsection (a) above.

### **2-1-204(7) Hearing Procedure.**

(a) **General Matters.** The Chair shall preside over the formal hearing. Each party shall have the opportunity to present testimony of witnesses and to submit documents. The Chair shall conduct the formal hearing in a manner that allows for the orderly presentation of testimony and documents, but is not required to follow rules of evidence and procedure utilized in a court of law. For the protection of the parties, the formal hearing shall occur in closed session and, with the exception of the presence of non-party witnesses during their testimony, no one other than the Chair, the Hearing Panel, the parties, and the parties' respective Academic Counsel (who may not be called as a witness in the formal hearing) shall be present. The information presented at the formal hearing shall not be provided to third persons except to the extent required to effectuate the decision of the Hearing Panel. The parties may be assisted and/or advised by Academic Counsel, but the parties shall be the only persons who shall present their respective positions and arguments, and question witnesses before the Hearing Panel. The Chair shall make reasonable efforts to notify all persons identified by each party as potential witnesses and to arrange for the appearance of such witnesses at the formal hearing. If the appearance of a witness is not possible, the Chair may allow, in their discretion, such witness to provide a written statement of matters relevant to the appeal.

(b) **Quorum.** A quorum for purposes of the formal hearing shall consist of the Chair, at least three (3) faculty members and at least three (3) student members of the Hearing Panel.

(c) **Record.** A record of the proceeding shall be made and consists of an audio recording of the formal hearing, all documents presented, and the Hearing Panel's written decision pursuant to 2-1-204(7)(g).

(d) **Burden of Proof.** The burden of proving that the Academic Decision was arbitrary, capricious, or a violation of University policy is on the student. The Hearing Panel may consider all evidence, regardless of who presents the evidence, in determining whether the burden of proof has been met.

(e) **Formal Hearing Protocol.**

(i) The Chair shall call the formal hearing to order, identify the issues and parties involved and give an overview of the hearing process.

(ii) An opening statement may be made by each party.

(iii) The Chair shall moderate the presentation of witness testimony in a manner that facilitates the receipt of relevant evidence of which the witness has first-hand knowledge or other indicia of reliability. Each party may call any witness identified by any party and may ask relevant questions of any witness called to testify.

(iv) The Chair shall moderate the introduction of documents and other materials into the record in a manner that facilitates the introduction of relevant evidence that demonstrates their authenticity.

(v) The Chair may adjourn the formal hearing for a reasonable period of time, if required, to complete the introduction of relevant evidence. Once the Hearing Panel has determined that all relevant evidence of the parties has been presented, the Chair shall close the formal hearing.

(f) **Deliberation and Decision.** Within five (5) working days of the closure of the formal hearing, the Hearing Panel shall deliberate and decide whether, by a preponderance of the evidence, the Academic Decision that the student has appealed was arbitrary, capricious, or a violation of University policy. The decision of the Hearing Panel must be one to which at least two-thirds of the Hearing Panel agrees.

(g) **Preparation of Written Decision of the Hearing Panel.** The members of the Hearing Panel shall assist the Chair in the preparation of a written decision that contains findings of relevant facts that support the decision of the Hearing Panel. The written decision shall also contain separate statements of each conclusion decided by the Hearing Panel based upon its findings. The written decision shall not disclose opinions or conclusions of individual Hearing Panel members. The written decision, once final, shall be distributed by the Chair to the parties, the DSPAC, the appropriate Dean, and the CAO no later than one (1) calendar day following its preparation.

(i) In appeals involving a final grade, if the Hearing Panel's decision is that a final grade change should be made, the Chair shall contact the faculty member regarding the decision about the specific final grade change recommended by the Hearing Panel. If the faculty member does not agree with the Hearing Panel's recommendation, the Chair shall provide the written decision to the DSPAC for its determination of the final grade change consistent with the written decision of the Hearing Panel. Such determination to be made no later than five (5) working days following its

receipt of the written decision. The final grade change of the DSPAC shall be submitted to the Registrar for entry of the final grade.

(ii) In appeals involving program termination, if the Hearing Panel's decision is that the student's program not be terminated, the decision shall be communicated to the DSPAC, who shall take all actions necessary to reinstate the student's program. The Hearing Panel's decision may also include recommendations, if any, about remedial actions as part of the reinstatement of the student's program. In their discretion, the CAO shall consider any remedial recommendations and may implement such remedial actions as they deem reasonable and appropriate.

(h) **Disposition of Records.** After the Hearing Panel's written decision is distributed to the parties, the DSPAC, the appropriate Dean, and the CAO, the Chair shall forward all records of the formal hearing to the CAO. Except when required by a valid subpoena issued by a court of competent jurisdiction, access to the records of the formal hearing shall be confined to authorized University personnel, who require access in connection with the performance of their duties.