

S97-8 STUDENT FAIRNESS COMMITTEE; GRADES AND GRADE APPEALS; STUDENT GRIEVANCES; STUDENT RIGHTS

Legislative History:

At its meeting of May 5, 1997, the Academic Senate approved the following Policy Recommendation presented by Sally Veregge for the Organization and Government Committee.

The following University policies are superseded: S84-4, S83-7, S73-25, and S71-24.

ACTION BY UNIVERSITY PRESIDENT:

Approved and signed by President Robert Caret on September 18, 1997

POLICY RECOMMENDATION

STUDENT FAIRNESS COMMITTEE

Whereas: Responsibility for resolution of student grievances is now divided between two committees, and

Whereas: There has been considerable disparity in their respective workloads, and

Whereas: Greater efficiency might be achieved if the committees were combined, now, therefore, be it

Resolved: That the following document entitled "Student Fairness Committee" be adopted as policy.

ACADEMIC FAIRNESS COMMITTEE

I. Committee Restructuring

A. The existing Academic Fairness Committee and Student Grievance Committee are abolished.

B. A new Student Fairness Committee is established as an operating committee of the Academic Senate reporting to the policy committee on Instruction and Student Affairs.

II. Membership, Charge and Committee Chair

A. Membership and Charge

1. Voting members of the Student Fairness Committee shall be:

Seven students (not more than two may be graduate students);

Seven full-time tenured faculty, each from a different college;

Two University administrators (management), nominated by the Executive Committee;

Two University staff (non-management) representatives.

The Ombudsperson shall be an *ex officio* member of the committee, but without vote.

2. Student members shall be appointed for one-year terms. All other appointed members shall serve for two-year terms.

3. The charge of the committee shall be: a) Hears complaints of violations of student rights in instructional and curricular matters, including grade appeals, and, when appropriate, makes recommendations for redress; b) Hears and seeks redress of non-instructional student grievances concerning individual members of the faculty, administration or staff, and, when appropriate, makes recommendations for redress.

4. If the committee is involved in any specific case at the time a member's term expires, that member shall continue to function as a member of the committee in its dealing with that specific case until the case is concluded. A newly-appointed member shall not be considered as a member of the committee for the purposes of any case in which committee proceedings originated before her/his term began. She or he shall, however, function as a committee member for all other cases.

5. Any member of the committee may disqualify him or herself from consideration of a specific case, in which event a replacement shall be appointed for consideration of that case.

6. Either party to a hearing before the committee may request of the committee chair that any member or members of the committee be excluded from consideration of that case. Such a request must be for stated cause and must be brought to the chair's attention as the first step in the hearing. If a member is disqualified by the chair, a replacement shall be appointed for the case.

7. (Temporary provision) This policy shall be in effect in and after AY 1997-98. Notwithstanding the provisions of part II A, all members of both the prior Academic Fairness Committee and the prior Student Grievance Committee appointed for terms extending beyond 1997 shall continue to serve on the new Student Grievance Committee for the balance of their terms. Vacancies shall be filled in accordance with part II A.

B. Committee Chair

The committee chair shall be the administrative officer of the committee. Duties of the chair include scheduling of meetings and hearings and giving notice of them to members, witnesses, and all interested parties requested to attend, obtaining and distributing to the committee written materials appropriate for

its consideration, maintaining committee records and giving written notice of committee decisions to the parties and to the immediate supervisor or department chair of a person determined to be responsible for a grievance. The chair may request the assistance of the Ombudsperson in carrying out her or his administrative duties.

III. Grievance Categories and Processing

A. A grievance can be brought as a result of an unauthorized or unjustified act or decision by a member of the faculty or staff or an administrative officer which in any way adversely affects the status, rights or privileges of a student.

B. Grades, Faculty and Other

1. Student grievances arising out of assignment of grades or grade appeals shall be considered and decided in accordance with Executive Order 320 and part IV of this policy. Only faculty and student members of the committee shall take part in proceedings that deal with assignment of grades or grade appeals.

2. Student grievances against faculty members arising out of instruction or instructionally-related matters, other than assignment of grades or grade appeals, shall be considered and decided in accordance with part V of this policy. Only faculty and student members of the committee shall take part in proceedings that deal with grievances against faculty members arising out of instruction or instructionally-related matters.

3. All other grievances shall be considered and decided in accordance with part V of this policy and all committee members shall take part in these proceedings.

IV. Grades and Grade Appeals Process

A. Submission and Recommendations

1. A student seeking a change of grade shall first attempt to resolve the matter with the faculty member who assigned the grade. If agreement is not reached, the student should seek the aid of the department chair and then (if necessary) the Ombudsperson. If this informal process fails to resolve the matter, the following procedures shall be available to the student. The burden of proof rests with the complainant.

2. Grade appeals must be filed with the Student Fairness Committee (SFC), through the Ombudsperson, no later than the end of the semester following that in which the grade was posted to record. University action on the appeal shall be completed within one semester following that in which the appeal is filed. Extensions of these time limits shall be given by the committee when circumstances warrant it.

3. The SFC shall hear the case and determine the **NEED** for and **DIRECTION** of a change of grade for consideration by the appropriate faculty committee as specified in paragraph 5 below. The SFC may then **RECOMMEND**, but not assign, an appropriate grade or resolution to the problem.

4. The SFC decision, including any recommendation for a grade change and full written disclosure of the basis and documents in the case, shall be submitted to the student, the instructor of record and to the chair of the involved department.

5. Upon receipt of the SFC decision, and if the instructor of record does not agree to the recommended a

change of grade, the department chair or program coordinator and a college-level ad hoc committee of regular faculty shall determine the appropriate grade. In its deliberation, the college committee shall invite one faculty member of the SFC to sit in with voice but not vote. If the instructor of record cannot or refuses to change the initial grade to that determined by the college committee, the decision of the college committee will be sent to the Office of Records and the recommended grade change will be made.

B. Establishing The College-Level Ad Hoc Committee:

1. The college dean shall select four faculty members who are of equal or higher rank and have academic preparation comparable to the instructor of record to serve with the department chair/program coordinator.
2. One faculty member shall be from the same department as the instructor. The other three shall be from departments other than that of the instructor, but from departments representing related disciplines.
3. If the department chair is the instructor of record, the dean or his or her designee shall chair the committee.

C. Ad Hoc Committee Deliberations:

1. Procedures shall provide safeguards to assure fairness for both student and instructor.
2. All documentary evidence available, including that which supports the SFC recommendation, shall be carefully reviewed.
3. The student and the instructor shall each be invited to make a presentation to the ad hoc committee and to answer questions. Apart from such voluntary appearances, only the members of the ad hoc committee and the SFC representative shall be present during its deliberations.
4. At least three votes are required to affirm the SFC recommendation.

D. Ad Hoc Committee Decisions

1. The decision of the ad hoc committee along with a written statement of the basis for the decision shall be sent to the instructor, the student, the Ombudsperson, the college dean and the Provost.
2. All documents must be returned to the Ombudsperson's office.

V. Resolution of Grievances

A. Grievances should be resolved at the lowest possible level and redress should, in all cases, be sought through informal discussions.

1. Informal discussion between persons directly involved in a grievance is essential in the early stages of the dispute and should be encouraged at all stages. An equitable solution to the problem should be sought before the persons directly involved in the case have made public or official statements that might tend to polarize the dispute and render a solution more difficult. Events of informal discussion not applicable to the original charge may not be used for or against either party, if the case goes to a hearing.

2. Student Rights and Responsibilities In The Grievance Process

- a) Students should consult and seek the good offices of fellow-students, non-involved faculty, the counseling staff, the Ombudsperson, the Associate Vice Presidents for Graduate or Undergraduate studies or the Vice President for Student Affairs in attaining a satisfactory resolution.
- b) The student will first try to resolve the alleged grievance with the person directly responsible for the action or decision.
- c) Failing a satisfactory resolution, the student should bring his/her complaint to the attention of the department chair, college dean, or immediate supervisor of the responsible person, or to a higher administrator in that area.
- d) In these discussions and in all other proceedings under this policy, the student may choose a specific person to assist her or him as counsel or advocate. The person or persons complained against shall also be entitled to such assistance.

3. The SFC will consider the case only after resolution has been sought through such informal discussions.

B. Case Consideration Requirements

1. Consideration by the SFC requires that the student claiming to have been adversely affected by an unauthorized or unjustified University action or decision file a written complaint (via the Ombudsperson) stating the nature of the action or decision, its effect on him or her, and the redress sought. Any available documentary evidence shall be attached.
2. A copy of the complaint shall be promptly delivered to the person or persons against whom the complaint has been made from whom redress is sought. Such person or persons shall have a reasonable time (as determined by the committee) to study the complaint before a hearing is scheduled.
3. A copy of the complaint shall also be sent to the department chair or immediate supervisor of the person or persons against who a complaint is made.

C. Due Process Requirements

1. The committee shall establish and publish its own procedures which shall be consistent with academic due process and in accordance with the following requirements:
 - a) The burden of proof rests with the complainant.
 - b) The only persons present at a hearing before the SFC shall be the committee members, the parties and their representatives, and witnesses actually testifying before the committee.
 - c) The committee, before conducting a full adversary hearing, shall arrange for a swift and comprehensive investigation of the case on the basis of written statements by the complainant and preliminary discussion with her or him, whether or not there are sufficient grounds to hear the case, and whether it will accept written statements in lieu of personal appearances and oral testimony of witnesses. If the committee decides that there are not sufficient grounds for a full hearing, it may close the case, and the chair shall then notify the complainant and respondent in writing of the basis of its decision.

d) All procedures shall be conducted with as great dispatch as is consistent with due process and justice. In all possible cases, the matter shall be resolved within a semester. Only in extraordinary situations shall a matter be continued over a summer.

e) If the committee determines that the case merits further consideration, the parties involved shall be informed in writing, consulted as to the possibility of correcting the situation, and if a hearing is still required, be advised in writing of the scheduled time and place and alleged grievance.

f) At the hearing the complainant, persons directly involved, and witnesses may testify and be questioned by the opposite party and committee members. Only evidence or individual written statements presented in the hearings may be considered in the final judgment. All evidence shall be made available to all parties.

g) All proceedings of the SFC shall be consistent with the SJSU Statement on Student Rights and Responsibilities (UP S89-11).

D. The Decision Process

1. Committee members shall arrive at a decision in consultation among themselves after the parties and all other non-members have been dismissed. Only members who have heard all of the testimony relating to the alleged grievance may vote. A majority vote of such qualified members shall be required for a decision.

2. The SFC shall transmit its decision in each case to any person or agency which, in the opinion of the committee, is appropriate to take action to effectuate the decision. If remedial action has not been taken within a time that the committee deems reasonable, the SFC may request the President or any vice president to expedite resolution.

3. When, in the opinion of the committee, disciplinary action may be appropriate, the committee may make recommendations for further action to the President.

4. If redress or resolution of a case requires a policy change, or if a policy change appears to the SFC to be advisable, it may make an appropriate recommendation to the Executive Committee of the Academic Senate or to the President.

5. Should any person, whether or not directly involved in a complaint, appear to suffer some disadvantage or reprisal as the direct or indirect result of any complaint, testimony or statement in connection with committee action, the SFC shall, upon request or upon its own motion, take all necessary steps to verify the facts and remedy the injustice.

VI. Annual Committee Reports

The SFC in conjunction with the Ombudsperson shall report to the Academic Senate annually regarding the number of cases heard and their disposition (excluding matters that would identify individuals). The committee may also recommend to the Senate any revisions in this policy that it deems appropriate.