

**SAN JOSE STATE UNIVERSITY
ONE WASHINGTON SQUARE
SAN JOSE, CA 95192**

**S14-3, University Policy, Student Fairness Dispute
Resolution**

Legislative History: Rescinds University Policy S07-6

At its meeting of April 14, 2014, the Academic Senate approved the following policy recommendation presented by Senator Frazier for the Instruction and Student Affairs Committee. This policy is a revision of S07-6, Student Fairness Dispute Resolution. Students will now be allowed to serve up to two years without having to re-apply, and the procedure for addressing problems between students and instructors or other university employees before a complaint is filed is more clearly spelled out in this revision of S07-6.

**Action by University President: Approved and signed by
President Mohammad Qayoumi
on April 24, 2014**

**University Policy:
Student Fairness Dispute Resolution**

Rescinds: S07-6

Background: S07-6 (“Student Fairness Dispute Resolution”) set the terms for the membership and charge of the Student Fairness Committee (“SFC”) as well as the procedures to be used when a student files a grade dispute or grievance against a university employee. S07-6 also spelled out some of the procedures for the highest level of appeal, the Board of Academic Freedom and Professional Responsibility (“BAFPR”).

In recent years, rising numbers of grade disputes and grievances as well as the difficulty of finding enough students to serve on the SFC have led to a backlog of work for the SFC; grievants must often wait several semesters before their cases are resolved. The current policy aims to redress the challenges of student membership on the SFC, streamline the resolution process, and thus help clear the backlog of cases. The procedures described herein have a further rationale, as explained below.

Resolved: That the attached be adopted as policy rescinding S07-6.

Rationale: The substantive changes in the new policy, and their reasons, compared to S07-6 are as follows:

1. Students will be permitted to serve up to two years on the SFC without the need to re-apply after the first year (as described below in Part I), a change which should allow for more fluid transitions and easier meeting opportunities year to year;
2. A procedure for addressing problems between students and instructors or other university employees *before the filing of complaints with the University Ombudsperson* is more clearly spelled out (below in Parts II.B. and III.B), which should allow many of those problems to be resolved at a local (department / school / college) level and thus not require SFC involvement.

The rationale for this policy draft goes beyond one of mere expediency. S90-5 already mandates that grade disputes and grievances be handled “with the department chair and then with the dean of the school concerned.” Grade disputes and grievances are, in any case, best dealt with at the departmental / school and college level at first; chairs, directors, and associate deans are more aware of their local contingencies and personalities and therefore better equipped to mediate the issues that arise. Indeed, when handled locally in the past, problems have often been found to be resolved fairly quickly and easily. Students or university employees dissatisfied with local decisions will of course retain the right to appeal to the SFC.

Approved, Part I (O&G):	March 3, 2014
Vote:	8-0-0
Present:	Bacich, Brada-Williams, Guerrazzi, Kaufman, Laker, Mathur, Rudy, Vera-Sanchez
Absent:	Backer, Miller, Morazes, Poole
Approved, Parts II-VII (I&SA):	March 17, 2014
Vote:	11-0-0
Present:	Ayala, Branz (non-voting), Brooks, Culatta, Frazier, Hernandez, Hebert, Jeffrey, Kress, Sofish, Walters, Wilson
Absent:	Bruck (non-voting), Campsey, Fujimoto, Gupta, Jabagchourian, Kelley, Rosenblum
Financial impact:	None
Workload impact:	No increase in workload.

Student Fairness Dispute Resolution

I. Student Fairness Committee

A. Membership and Charge

1. Voting members of the Student Fairness Committee (SFC) shall be:
 - Seven students (two may be graduate students) nominated by Associated Students;
 - Seven faculty members nominated by the Academic Senate, preferably one from each college;
 - Two University administrators (management), nominated by the Executive Committee of the Senate;
 - Two University staff (non-management) representatives
 - The University Ombudperson shall be an ex officio member of the committee, without vote.

2. Student members: because the committee deals with issues of fairness to students, CSU Executive Order 320 mandates that students be fully represented. Although Associated Students must nominate student members, recruitment of suitable student nominees is a shared responsibility of the committee. The committee chair and other committee members shall reach out to departments (e.g. Political Science) and student groups (e.g. Pre--law, Forensics) whose students are likely to benefit from service on such a committee. Recruitment shall be an ongoing process as necessitated by vacancies, but nominations and appointments for the next academic year will ideally be made at the end of the spring semester so that the committee can conduct its business promptly at the start of the academic year. Any vacancies that persist beyond the third week of the Fall semester shall become "at-large," and any qualified student, whether undergraduate or graduate, may serve for the remainder of that academic year. All appointments shall comply with the requirements of section 5.0 of University Policy S05-4, "Academic Qualifications for Student Office Holders."

Initial appointments of student members shall be for one year, but a student member may serve a second year without being re--nominated upon the recommendation of the committee chair and the Ombudperson.

3. All other members shall be appointed for two--year terms.

4. The charge of the SFC shall be to hear and investigate disputes between a student and one or more university employees that may either be
 - a. alleged violations of student rights in instructional and curricular matters, including grade appeals; or

- b. non--instructional student grievances concerning individual members of the faculty, administration or staff.

When appropriate the SFC shall make recommendations for redress.

5. If the SFC is involved in any specific case at the time a member's term expires, when possible, that member should 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. However, she or he shall function as an SFC member for all other cases.
6. Any member of the SFC may disqualify him or herself from consideration of a specific case and abstain from voting on the committee recommendation.
7. Either party involved in a case being heard by the committee may request that a committee member be excluded, for stated cause, from consideration of that case. All parties will be informed of their right to challenge a committee member. Any request to exclude a committee member must be brought to the attention of the chair prior to any vote by the full committee. The chair will review all requests for excluding a committee member from a case and determine if the challenge is appropriate.

B. Committee Chair

The SFC chair shall be a faculty member and serve as the administrative officer of the committee. The duties of the chair include scheduling of meetings and hearings, giving notice to witnesses and all interested parties involved in the case. The chair will distribute materials appropriate for consideration to all parties involved, maintain committee records and give written notice of committee decisions to the parties and to the university employee's immediate supervisor (as appropriate). The chair may request the assistance of the Ombudsman in carrying out these administrative duties. The chair shall review all submitted petitions (grade disputes and grievances). If the chair finds the petition is appropriate for consideration by the committee a subcommittee will be assigned to investigate the case. The chair shall reject petitions that go beyond the scope and authority of the SFC, and refer as appropriate.

II. Grade Disputes

A. Grounds for Grade Appeals

Disputes arising out of assignment of grades or grade appeals shall be considered

and decided in accordance with Executive Order 1037, "There is a presumption that grades assigned are correct. It is the responsibility of anyone appealing an assigned grade to demonstrate otherwise" (EO 1037).

The SFC shall hear grade dispute petitions when petitions are deemed to be appropriate and include evidence related to the following conditions:

1. When there is evaluation of students that differs from announced requirements.
2. When there are belated impositions of requirements.
3. When grades are based on criteria other than academic performance in the course.
4. When grading criteria do not provide a clear and consistent method of evaluating students' work or performance.
5. When students' requests for information during the semester regarding their academic progress in the course are not responded to in a reasonable time (e.g., two weeks after the request is made).
6. When students' requests for an explanation of how the posted course grades for a term were determined are not responded to in a reasonable time (e.g., the later of two weeks after the request is made or one week before the add deadline for the fall or spring semester following the term in question).
7. When students are penalized for expressing opinions.
8. When students are given to understand that they are removed from a course without due process of a hearing.

Only faculty and student members of the SFC shall have voting rights in cases involving assignment of grades or grade appeals.

B. Student Rights and Responsibilities in the Grade Dispute Process (S90-5)

Informal discussion between persons directly involved in the dispute is essential in the early stages of the resolution process and shall be encouraged at all stages.

1. The student shall first contact their instructor and arrange a meeting. Faculty members shall then meet with the student in order to seek resolution of the issue or dispute through an informal discussion.
2. If an acceptable resolution is not reached, the student should contact the department chair or school director for assistance. The chair or director shall then meet with the student and attempt to mediate the situation.
3. If a resolution is not reached after consultation with the department chair or school director, the student should contact the associate dean of the college. The associate dean shall consult with the student and the department chair or school director in an attempt to resolve the situation informally at the college level.

The student may consult with the University Ombudsperson at any step in this process, including prior to the initial meeting with the instructor.

All procedures shall be conducted with as great dispatch as is consistent with due process and justice. All proceedings and agreements – between aggrieved students, department chairs, school directors, and / or associate deans – shall be documented in writing (if electronically, then easily retrievable).

If this informal process fails to resolve the matter, the student may appeal to the Student Fairness Committee (SFC – see Part IV below). Petitions must be filed with the SFC no later than the end of the subsequent fall or spring semester following that in which the alleged cause of the dispute occurred.

III. Grievances

The SFC does not have the authority to receive complaints on matters of sexual harassment, civil rights, disability rights, or equity and diversity. Nor does the SFC deal with allegations of violations of the student code of conduct or the academic integrity policy. Students may, however, consult with the University Ombudsperson about these processes.

A. Grounds for Grievances

A grievance is an allegation of an unauthorized or unjustified act or decision by a member of the faculty or staff or an administrative officer (hereafter referred to as university employee(s)), that in any way adversely affects the status, rights or privileges of a student.

A grievance petition shall be heard, investigated and voted on by all eligible members of the SFC.

B. Student Rights and Responsibilities in the Grievance Process (S90-5)

Informal discussion between persons directly involved in the dispute is essential in the early stages of the resolution process and shall be encouraged at all stages.

1. Students shall first contact the university employee involved in the dispute and arrange a meeting. The university employee shall then meet with the student in order to seek resolution of the issue or dispute through an informal discussion.
2. If an acceptable resolution is not reached, the student should then contact the immediate supervisor of the university employee for assistance. The supervisor shall then meet with the student and attempt to mediate the situation.
3. If a resolution is not reached after consultation with the supervisor, the student should contact the appropriate director, associate dean, or AVP. The director, associate dean, or AVP shall consult with the student and the supervisor in an attempt to resolve the situation informally at the department or college level.

The student may consult with the University Ombudsperson at any step in

this process, including prior to the initial meeting with the employee.

All procedures shall be conducted with as great dispatch as is consistent with due process and justice. All proceedings and agreements – between aggrieved students, supervisors, school directors, associate deans, and AVPs – shall be documented in writing (if electronically, then easily retrievable).

If this informal process fails to resolve the matter, the student may appeal to the Student Fairness Committee (SFC – see Part IV below). Petitions must be filed with the SFC no later than the end of the subsequent fall or spring semester following that in which the alleged cause of the dispute occurred.

IV. Formal Grades Dispute and Grievance Process – Student Fairness Committee

A student involved in a dispute must first attempt to resolve the matter with the other party. If resolution is not reached (as outlined in II.B or III.B), a student may file a formal grade dispute or grievance petition. The student is responsible for presenting evidence to substantiate all claims.

Petitions shall be filed with the SFC through the University Ombudsperson's office. The University Ombudsperson shall assist the student in the completion of the petition. Petitions must be filed no later than the end of the subsequent fall or spring semester following that in which the alleged cause of the dispute occurred.

Petitions shall be forwarded by the Ombudsperson to the SFC. The SFC Chair shall review the petition and if determined to be appropriate the SFC shall assign the case to a subcommittee for further investigation.

The student and the university employee(s) may each choose a person to assist in all proceedings under this policy. During the proceedings the assistant may only speak to the advisee.

The SFC shall attempt to investigate and make a recommendation on petitions within one semester. The SFC chair may, after review of a case, extend the time limit if it is deemed appropriate.

The subcommittee investigating the dispute shall consist of one student and one other eligible non-student voting member of the SFC who in the case of a grade dispute shall be a faculty member.

The subcommittee shall review all documents related to the case and interview both sides (the student first and then the other party) and witnesses.

The subcommittee shall submit its finding to the full SFC for consideration.

The SFC shall invite, on separate occasions, all parties involved in the case to a formal

hearing to state their positions before the full committee.

V. The Decision Process

The SFC shall hear all parties with significant information or evidence in the case. All parties shall present statements, evidence and witnesses to support their claims. All witnesses shall have direct knowledge of the case. Both sides in the conflict have the options of making an oral presentation, submitting a written statement or both, to the full SFC.

The subcommittee shall present its recommendation after all other parties involved in the case have made their presentations.

The SFC shall arrive at a decision after all non-members have been dismissed from the hearing. Only eligible members who have heard all of the testimony and evidence may vote. In the matter of grade disputes only faculty and students shall vote.

A majority of those voting shall determine the decision of the SFC.

The SFC recommendation for a dispute resolution shall be communicated in writing to all parties involved in the process.

If the SFC finds in favor of the university employee(s), a written statement with rationale for the decision shall be mailed to both sides in the case. The SFC decision shall exhaust all campus options for the student and the case is closed.

If the SFC finds in favor of the student in a grade dispute, a written statement specifying which of the eight conditions were violated and the grounds for this determination, shall be mailed to the university employee(s) and their immediate supervisor(s). They shall have ten (10) working days to accept or reject the recommendation of the SFC.

If the SFC finds in favor of the student in a grievance, a written statement specifying which of their statuses, rights, or privileges were adversely affected and the grounds for this determination shall be mailed to the university employee(s) and their immediate supervisor(s). They shall have ten (10) working days to accept or reject the recommendation of the SFC.

The University employee(s) have the option to accept or reject the SFC recommendation. If the decision is to accept the SFC recommendation the University employee(s) shall submit their written intent to the SFC chair and after the corrective action is completed the case is closed. The student shall receive a written statement with rationale for the decision.

If the University employee(s) submits a written rejection of the SFC recommendation or fails to respond within ten (10) working days of the notice, the SFC chair shall forward the case to the attention of the Board of Academic Freedom and Professional Responsibility for review and final decision.

VI. The Board of Academic Freedom and Professional Responsibility (BAFPR)

The BAFPR is an Academic Senate committee composed of faculty eligible to render a decision in a grade dispute as stipulated in EO 792.

When a recommendation by the SFC in a dispute is rejected by the University employee(s) all documents in the case shall be forwarded to the BAFPR for review and final decision.

The BAFPR shall undertake a review of the case referred by the SFC, interview both parties and witnesses if appropriate and examine all relevant documents.

The chair of the SFC subcommittee that initially reviewed the case shall attend all BAFPR meetings pertaining to the rejected SFC recommendation and shall present the recommendation submitted by the SFC.

The BAFPR, after reviewing all documents and hearing from the student, university employee and any other parties in the conflict, shall arrive at a decision by means of majority vote. The SFC subcommittee chair shall not have a vote in the decision.

The BAFPR shall have the final decision in the case.

In the matter of a finding in favor of the University employee(s) all sides shall receive written notice and rationale for the decision. The student shall have exhausted all campus options and the case is closed.

In the matter of a finding in favor of the student the University employee(s) and student shall receive written notice and rationale for the decision. The chair of the BAFPR shall communicate its decision and the SFC recommendation to the appropriate supervisor or administrator to implement the decision. If the remedial action has not been taken within a reasonable time as determined by the BAFPR a request to the president, provost or appropriate vice president shall be made to expedite the resolution.

If redress or a resolution of a case require a policy or procedure change or a policy or procedure change appears advisable the SFC shall recommend such action to the Executive Committee of the Academic Senate or appropriate administrators.

All parties directly or indirectly involved in a case, offering testimony or statements, are protected against reprisals or retaliation.

At the conclusion of the case all documents must be returned to the University Ombudsperson office.

VII. 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. The committee may also recommend to the Senate any revisions in this policy that it deems appropriate.