

Graduate Council Report

June 2, 2011

Discussion Item:

Graduate Council approved the recommended change to Student Rule 12.4, pertaining to Scholastic Deficiency. Rule change presented to council by Dr. Robin Autenrieth, on behalf of the Graduate Operations Committee.

Student Rule 12.4 - Scholastic Deficiency

OLD wording

Scholastically deficient post-baccalaureate non-degree students (G6 classification) *will be suspended from the university by the Office of Graduate Studies.*

NEW wording

Scholastically deficient post-baccalaureate non-degree students (G6 classification) *will be suspended from further study by and in their home department or program.*

Special Consideration Item

June 2, 2011

Discussion Item:

Graduate Council approved the recommended changes to Student Rule 59.
Graduate Appeals Panel.

Rule 59 – Proposed Revision

59. Graduate Appeals Panel (Revised: 2010)

The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.

59.1 Scope. The Graduate Appeals Panel (GAP) will hear appeals that involve actions against students stemming from: (a) suspension or blocks for scholastic deficiency (including failure to make sufficient progress in the student's academic program); and (b) appeals of disputes over final course grades or evaluation of performance on examinations required by the department, intercollegiate faculty, or the graduate advisory committee.

59.1.1 Scholastic Dishonesty. Actions stemming from scholastic dishonesty, and any appeal of that action, will be dealt with through the **Aggie Honor System Office**.

59.1.2 Discrimination. Student Rule 45 should be used for grievances concerning race, color, national or ethnic origin, religion, age, sexual orientation, or veteran status.

59.1.3 Sexual Harassment. Student Rule 47 should be used for grievances concerning sexual harassment when the alleged offender is an employee of the university.

59.1.4 Disability Accommodations in Academic Programs. Student Rule 46 should be used for grievances concerning disability accommodations in academic programs.

59.1.5 Eligibility. The eligibility to obtain a hearing before the Graduate Appeals Panel means that the student seeking a hearing has complied with all prerequisites as set forth in this rule.

59.2 Definitions. In this rule, the following words have the following definitions and no other:

“Adverse decision” means a decision by a faculty member or administrator that negatively impacts the student and for which the student wishes to pursue a grievance under this rule.

“Arbitrary” means no reasonable factual basis for reaching the conclusion or taking the action.

“Assertion” means a contention or theory about the existence of some state of being. An assertion is established or disproved by evidence.

“Credible” means believable by a reasonable person.

“Evidence” means information by which an alleged fact is established or disproved. Evidence establishes or disproves an assertion.

“May” means a condition that is not required to be met; it is discretionary. Contrast “shall.”

“Parties” means the student or the Respondent.

“Prejudicial” means irrational attitude of hostility directed against an individual. This does not include hostility on the basis of race, color, national or ethnic origin, religion, sex, disability, age, sexual orientation, or veteran status.

“Preponderance of evidence” means the greater weight of credible evidence submitted in the hearing. For a fact to be established by a preponderance of the evidence the GAP must find the fact is more likely true than not true.

“Respondent” means the faculty member (or administrator) that made the decision.

“Shall” means a condition that must be met. Contrast “may.”

“Some credible evidence” means a quantity of evidence that is believable by a reasonable person.

“Student” means an individual graduate student enrolled at the university that is the subject of an adverse academic decision.

59.3 Membership. The pool of faculty and graduate students that sit as a panel on a GAP shall be appointed by the President or designee. A GAP shall be comprised of the chair, four (4) graduate faculty members, three (3) graduate students, and two (2) graduate student alternatives. A quorum consists of the chair, three (3) faculty members and two (2) graduate students.

59.4 Informal Resolution Procedures. To be eligible for a hearing before the GAP, a student shall first complete each of the following informal resolution procedures.

59.4.1 Respondent Conference. The student shall schedule and attend a conference (in-person or by telephone) with the respondent, informing the respondent of his/her concerns about the adverse decision. The respondent must fully inform the student about the grounds for and process used in reaching the decision. The aim of this conference is for: (1) the student to communicate how and why the decision is arbitrary or prejudicial; (2) the respondent to communicate how and why the decision is not arbitrary or prejudicial; and (3) the respondent to correct errors, if any, in the decision. The respondent should draft a letter describing the outcome of the conference and provide it to the student. This step does not apply to students that have already completed the process set forth in Student Rule 48.

59.4.2 Department Review. If the student does not receive a satisfactory outcome at the conclusion of the respondent conference, the student may seek review of the decision by the department head (or designee) of the department offering the course. The department head (or designee) shall provide a written response to the student. This step does not apply to students that have already completed the process set forth in Student Rule 48.

59.4.3 College Review. If the student does not receive a satisfactory outcome at the conclusion of the department review, the student may seek review of the decision by the dean (or designee) of the department offering the course. The dean (or designee) shall provide a written response to the student. This step does not apply to students that have already completed the process set forth in Student Rule 48.

59.5 Formal Resolution Procedure. If, after completing all required steps in the informal resolution procedures section, the student has not received a satisfactory

outcome, the student may seek a hearing before the GAP. To be eligible to receive a hearing before the GAP, a student must complete and file a *Graduate Appeals Panel Hearing Request Form* (this form is provided at the end of this rule) with the Associate Vice President for Graduate Studies. The student must file the hearing request form no later than ten (10) days after receiving the dean's (or designee's) letter referenced above in section 59.4.3, College Review. For students that have completed the process set forth in Student Rule 48, a *Graduate Appeals Panel Hearing Request Form* must be received by the Associate Vice President for Graduate Studies no later than ten (10) calendar days after receiving the dean's notification referenced in Student Rule 48.5.

59.5.1 Chair Review. Upon receipt of a *Graduate Appeals Panel Hearing Request Form*, the Associate Vice President for Graduate Studies shall deliver a copy of the form and all attachments to the Chair of the GAP. The Chair shall review the materials to determine if the student has provided some credible evidence that, if left uncontested in the GAP hearing, convinces the Chair that the GAP could conclude the evaluation of the student's performance was arbitrary or prejudicial.

59.5.1.1 If the student has not provided some credible evidence that, if left uncontested in the GAP hearing, convinces the Chair that the GAP could conclude the evaluation of the student's performance was arbitrary or prejudicial, the Chair shall notify the student and Associate Vice President for Graduate Studies in writing that the student's request for a GAP hearing is rejected. The Chair's decision is final.

59.5.1.2 If the student has provided some credible evidence that, if left uncontested in the GAP hearing, convinces the Chair the GAP could conclude the evaluation of the student's performance was arbitrary or prejudicial, the chair shall notify the student and Associate Vice President for Graduate Studies in writing that the student's request for a GAP hearing is granted and proceed to schedule the hearing.

59.5.2 Pre-Hearing Procedures.

59.5.2.1 If the Chair grants a hearing, he shall forward a copy of the student's *Graduate Appeals Panel Hearing Request Form* and all attachments to the Respondent and the Respondent's Department Head.

59.5.2.2 The Chair shall notify the student and Respondent of the time, date, and location of the hearing. The hearing should not be scheduled less than thirty (30) days after the hearing request form and attachments are sent to the Respondent. The notice of hearing should include a list of potential panel members. At the Chair's sole discretion, if a potential panel member cannot be a fair and impartial panelist, they may be removed.

59.5.2.3 The Respondent shall submit to the Chair and student a list of all witnesses to be called by the Respondent. The Respondent shall also provide to the Chair and the student copies of all documents to be submitted for consideration by the GAP. The witness list and documents shall be submitted no later than fifteen (15) calendar days prior to the hearing. The failure to meet this deadline may result in the witnesses and documents being excluded from the hearing.

59.5.2.4 If, after receiving the witness list and documents of the Respondent, the student wants to add additional witnesses or documents to those already submitted with his/her hearing request form, the student shall submit to the Chair and Respondent the additional documents and witness names not less than ten (10) calendar days prior to the hearing. The failure to meet this deadline shall result in the witnesses and documents being excluded from the hearing unless the respondent agrees to waive the deadline or the Chair decides the additional documents and witnesses will be allowed.

59.5.3 Appeal Hearing.

59.5.3.1 The Chair shall assemble to hear the student's appeal a quorum of panelists. A quorum consists of the chair, three (3) faculty members and two (2) graduate students. Prior to the hearing the panel may be briefed about the identity of the parties to the hearing (student and respondent), the general subject matter of the hearing, and the potential witnesses. However, the panel may not be given any documentary evidence or witnesses statements prior to the hearing. The panel must make its decision based solely on the evidence presented by the parties during the hearing. The panel members shall not engage in any independent investigation outside of the hearing nor consider any evidence obtained outside of the hearing.

59.5.3.2 The hearing will be conducted in a manner conducive to ascertaining the facts of the case. The student and Respondent shall be provided a

reasonable opportunity to: (a) be present and hear all arguments and oral statements made to the panel during the hearing; (b) make arguments, present oral statements and written documents, and call witnesses to testify—so long as the presentation of material is relevant (as determined by the Chair) to the stated grounds for the appeal; and (c) ask questions of the other party’s witnesses.

59.5.3.3 Each party may be accompanied at the hearing by an advisor, who may be an attorney. An advisor may not represent a party, direct questions to the Chair or panel, participate in the opening or closing statements, engage in argument, or directly question witnesses. The advisor’s sole role is to provide advice and counsel to his party.

59.5.3.4 At any time, the Chair or panel may consult with an appropriate university advisor, call or recall witnesses, or introduce matters and information it deems relevant to the appeal.

59.5.3.5 The Chair may establish reasonable time limitations for the oral presentations of the parties.

59.5.3.6 The formal rules of evidence do not apply to GAP proceedings. The Chair shall decide the admissibility of evidence and the schedule of the hearing.

59.5.3.7 No witness that is not a party shall be allowed to attend the hearing before he/she testifies. Hearings will be closed to the public unless both parties and the Chair agree to make the hearing open to the public. If the hearing will be open to the public, the student agrees to sign a consent to release student record information as required by FERPA.

59.5.3.8 In hearings involving more than one student, at the sole discretion of the Chair, a single hearing may be scheduled for all of the students. If any one of the students requests a separate hearing or if the Chair determined it is in the best interest of the students, separate hearings may be held. When collective hearings are held, individual findings, decisions, and recommendations will be entered by the GAP.

59.5.3.9 A record of the hearing (e.g., by audiotape, videotape, or court reporter) will be made at the expense of the university. Upon receipt by the Chair of a written request, the student may obtain a copy of the record by paying the cost of reproduction or transcription.

59.5.3.10 The Chair may dismiss anyone from the hearing, including parties or advisors, whose conduct is inappropriate or disruptive to the hearing process.

59.5.3.11 The student has the burden of proof to demonstrate by a preponderance of credible evidence that the evaluation of the student's performance was arbitrary or prejudicial.

59.5.4 Appeal Hearing-Order of the Proceedings.

59.5.4.1 The Chair will begin the hearing with opening remarks. The Chair will summarize the issues, describe the role of the GAP, and explain the procedures to be followed. The Chair will then ask each person in the room to identify themselves for the record.

59.5.4.2 Unless otherwise determined by the Chair, the order of presentation will be as follows, with the allocation of time for each segment to be determined by the Chair in advance of the hearing:

- (a) Opening statement by the student.
- (b) Opening statement by the Respondent.
- (c) Student presents evidence (documents and witnesses), with opportunity for questioning by the Respondent and panel members.
- (d) Respondent presents evidence (documents and witnesses), with opportunity for questioning by the student and panel members.
- (e) Recess for closing statement preparation.
- (f) Closing statement by Respondent.
- (g) Closing statement by Student.
- (h) Chair declares hearing is concluded.

59.5.5 Post-Hearing Procedures.

59.5.5.1 Upon completion of the hearing the GAP will meet in closed session for deliberations. If the process requires additional time the GAP may suspend its deliberations and reconvene at a later day and time. A simple majority vote of the panel is required for findings, decisions, and recommendations. No panel member may abstain from voting. The Chair is not a voting member of the GAP unless for some unexpected reason his/her vote is required to break a tie.

59.5.5.2 The Chair will prepare a written final decision to the student, including:

(a) Indicate whether the appealed decision is affirmed or modified.

(b) Articulating the reasonable factual basis upon which the GAP reached its conclusion.

(c) Recommendations, if necessary to the individual case being heard, for further actions by university officials.

59.5.5.3 The Chair will provide the Respondent, Department Head of the department offering the course, Dean of the College offering the course, Associate Vice President for Graduate Studies, and the Executive Vice President for Academics and Provost with a copy of the decision.

59.5.5.4 The decision by the GAP is the final decision of the university and is not appealable to any university or system person or entity.

59.6 The Chair may reasonably deviate from the procedures detailed in this rule if the particular facts and circumstances of the matter support the change. A reasonable deviation from the procedures shall not be grounds for overturning the outcome of the hearing process set forth in this rule.

Date form received in OGS: _____
Received by (Print & Initial): _____

Graduate Appeals Panel (GAP) Hearing Request Form

This form is used to request a hearing under Student Rule 59. This form must be completed and filed with the Associate Vice President for Graduate Studies not later than ten (10) calendar days after receiving the dean's (or designee's) letter referenced in section 59.4.3. For students that have completed the process set forth in Student Rule 48, this form must be received by the Associate Vice President for Graduate Studies no later than ten (10) calendar days after receiving the dean's notification referenced in Student Rule 48.5.

Student Name (Last, First, Middle):

UIN:

Local Street Address:

City, State, Zip:

Telephone Number:

E-mail Address:

Department administering the student's degree program:

Disputed Academic Decision (must be within scope of GAP, see section 59.1):

Respondent (Person/Committee Who Made Decision):

Grounds upon which the grievance is based:

Attach (1) respondent conference letter; (2) department review letter; and (3) college review letter.

List all witnesses with first-hand knowledge who can support your allegations.

Attach legible copies of all documents that support your allegations.

What outcome or action are you requesting as a result of this grievance?

Advisor (include contact information):

Is your advisor an attorney?: If yes, have you advised your attorney his/her role is only that of an advisor?

Student Signature:

Date:

This form may be hand-delivered to:

This form may be mailed to:

This form may be faxed to:

This form may be e-mailed to:

Rule 59 – Current Version

59. Graduate Appeals Panel

(Revised: 2004)

The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.

Scope

The Graduate Appeals Panel will hear appeals that involve disciplinary actions stemming from suspension or blocks for scholastic deficiency, and disputes over final course grades or evaluation of performance on examinations required by the department, intercollegiate faculty or the graduate advisory committee. Disciplinary action stemming from scholastic dishonesty, and any appeal of that action, will be dealt with through the Aggie Honor System Office. Appeals will be heard when the student alleges that an arbitrary, capricious or prejudiced evaluation occurred. Appeals regarding departmental, intercollegiate faculty or Office of Graduate Studies requirements will not be heard.

The decision to request action by the Graduate Appeals Panel means that (1) the student has appealed to the department head and then the Dean or designee of the college administering the student's degree, and (2) the actions recommended at each level are unsatisfactory to the student or the examining committee. The student and/or the examining committee through its chair may file an appeal to the Graduate Appeals Panel through the Dean of Graduate Studies.

Membership

The Graduate Appeals Panel composition includes the chair, four graduate faculty members, three graduate students and two graduate student alternates. A quorum consists of three faculty members and two graduate students.

Procedures

59.1 In order to schedule a hearing before the panel, the student must have complied with the procedures described below:

59.1.1 Appeal Involving Suspension or Blocks Due to Scholastic Deficiency

The graduate student shall discuss the suspension with the Dean of Graduate Studies. If no change in status results from the discussion, the student may appeal to the Graduate Appeals Panel. The graduate student must file a written Notice of Intent to Appeal with the Dean of Graduate Studies within five working days of receiving notice of the suspension or blocking action. The Dean of Graduate Studies shall inform the chair of the graduate student's advisory committee (if formed), the appropriate department head and the Dean or designee that a notice of intention to appeal has been filed with the Graduate Appeals Panel.

59.1.2 Dispute over Final Course Grade or Examinations of Graduate Students by Departments, by Intercollegiate Faculty Members or by Graduate Advisory Committees. Prior to an appeal to the Graduate Appeals Panel, a graduate student alleging capricious, arbitrary or prejudiced academic evaluation must follow the procedures outlined in Part III, Student Grievance Procedures: 53. Graduate Student Examination Evaluation. The graduate student must file a written Notice of Intent to Appeal with the Dean of Graduate Studies within 15 working days of receiving written notice of any final action taken by the university under these procedures. The Dean of Graduate Studies shall inform the chair of the graduate student's advisory committee (if formed), the appropriate department head and the Dean or designee that notice of intention to appeal has been filed with the Graduate Appeals Panel.

59.2 To initiate an appeal to the Graduate Appeals Panel, the student and/or examining committee must, within 15 working days from the date of the Dean or designee's decision, submit to the Dean of Graduate Studies a written statement (Appeal Continuation) requesting an appeal and explaining why the student believes that decisions made by the department head and/or the academic college Dean or designee are regarded to be unsatisfactory. This becomes a part of the Appeal Summary File. At the time of filing the Appeal Continuation, the student and/or examining committee should arrange for a preliminary interview with the Dean of Graduate Studies.

The Appeal Summary File now includes the following: the student's original Notice of Intent to Appeal, written documentation originally submitted by the student, written assessment by the department head, written assessment by the Dean or designee, any short statements summarizing the testimony that may be presented by witnesses, the Appeal Continuation that shows justification for continuing the appeal and any written assessment added by the Dean of Graduate Studies following the preliminary meeting with the student and or examining committee.

The act of filing the Notice of Intent to Appeal Request to the Dean of Graduate Studies is construed as authorizing all panel members to have full access to the student's Appeal Summary File as now constituted.

59.3 Within 30 working days of filing the Appeal Continuation, the Dean of Graduate Studies will respond to the student and/or examining committee in writing of his/her decision. The Dean of Graduate Studies may resolve the appeal in the appellant's favor, reject the appeal and uphold the decision of the Dean or designee of the college administering the degree or refer the appeal to the Graduate Appeals Panel. This decision will be made in writing with copies added to the Appeal Summary File and mailed to the student, college Dean or designee, head, chair of the advisory committee and examining committee. If the student and/or examining committee are not in agreement with the decision of the Dean of Graduate Studies, then a request may be made in writing that the appeal be transmitted to the Graduate Appeals Panel. The request should justify why the decision by the Dean of Graduate Studies is believed to be unsatisfactory. Such a request must be submitted within 30 working days from the date the student receives the written decision from the Dean of Graduate Studies.

59.4 The Graduate Appeals Panel chair will examine the student's complete Appeal Summary File and meet with the student and/or examining committee in an attempt to

resolve the appeal. If a resolution satisfactory to both parties cannot be reached, then the appeal will be transmitted to the Graduate Appeals Panel. The Graduate Appeals Panel chair shall set the hearing for the earliest possible date and inform the student of the time and place for the hearing. The failure of the student to appear without justifiable cause shall terminate the right to appeal.

59.5 The chair shall sit as a hearing officer and shall not take part in the vote or otherwise participate in the deliberations of the panel, except to cast a tie breaking vote. It shall be the duty of the chair to rule on procedural matters and the admissibility of evidence. The chair may deny admission of any evidence that did not accompany the student's request for a hearing.

59.6 The burden of proof shall be upon the student to prove his or her case by a preponderance of evidence.

59.7 The student or examining committee shall have the right to consult with counsel of his/her/their own choosing and to present such witnesses and documentary evidence as may be pertinent. Any documentary evidence must be submitted to the chair of the Graduate Appeals Panel five working days prior to the hearing date. If the student or examining committee presents documentary evidence not included in the original Appeal Summary File, he/she/they must explain why this new evidence is now submitted. If the Graduate Appeals Panel chair rules the new evidence admissible, he/she shall share such evidence with all parties concerned. This new evidence will be subject to scrutiny by witnesses called by the student and other parties represented at the hearing. The student's department and college will be allowed to present witnesses supporting their written positions.

An attorney or an individual acting as an advisor may not represent the student or directly question or cross-examine witnesses, except in a case where the university is represented by an attorney.

59.8 All parties shall be afforded the opportunity for reasonable oral argument.

59.9 Upon request, sufficiently in advance by either party, the chair shall cause the testimony presented at the hearing to be recorded. A copy of the recording may be obtained from the chair at the expense of the requesting party.

59.10 Immediately after hearing an appeal, the panel will go into closed session to deliberate. The student will be informed of the panel's decision orally at the conclusion of the deliberations. A formal report to the president, with a copy to all interested parties, will confirm the panel's decision.

59.11 The panel may recommend a variety of solutions consistent with the best interests of the student and the university (including the voiding of examinations), except that a majority decision of an examining committee may not be reversed so as to grant a degree.



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