Procedures for Grade Appeals Based on the Alleged Use of Non-Academic Criteria

Committee on Courses of Instruction, Berkeley Division of the Academic Senate

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I. General Comments

Initial jurisdiction over grade grievances lies within academic departments, which make recommendations to the Committee on Course of Instruction (COCI), which determines the final resolution. COCI considers grades to be a matter of academic judgment and subject to challenge only on the basis of Berkeley Division Regulation A207.A. (Grade Appeals: Appeal Process), which states that the grounds for grievance are:

- application of non-academic criteria, including possible violations of University anti-discrimination policy, or other criteria not directly reflective of performance related to course requirements;
- possible violation of University sexual harassment policy;
- improper academic procedures that unfairly affect a student's grade.[1]

COCI encourages students and departments to contact the student Ombudsperson, who can assist in mediating conflicts related to grade grievances.

Please be aware that should the matter pertain to possible violation(s) of University anti-discrimination or sexual harassment policy, the alleged violation must be reported to OPHD and substantiated by the administrative process that follows OPHD's receipt of the report to be a policy violation (including exhaustion of applicable administrative procedures) before COCI will evaluate the grade appeal. COCI may either reject the grade appeal without prejudice or hold the grade appeal in abeyance pending resolution of such discrimination complaint.

Please contact the Student Ombuds Office for more information at 510-642-5754. Should any disputes arise regarding the grade grievance process, COCI should be contacted for assistance. Please contact COCI analyst Linda Corley at lindac@berkeley.edu.

[1] COCI interprets the meaning of "improper" academic procedures to be those which are not consistent with "proper" academic procedures. "Proper" academic procedures for evaluation require that the grading is based solely on the instructor's evaluation of how well a student's performance (project, paper, exam question, or student participation) addresses a specific requirement. This evaluation can involve elements of recall of factual information, integration of material and concepts covered (in class, readings, or assignments), and application of material and concepts to new situations. As long as the evaluation is based on the relevance of the answer (project, paper, exam question, or student participation) to the question asked (assignment given), there is no basis for considering any such evaluations improper. Inherent in this interpretation is that equivalent answers or work get equivalent grades.

II. Informal Resolution of Contested Grades

Students must first attempt to settle the matter informally. This should be done by discussing the issue with the instructor. However, if that is not possible, students may also contact the department chair and Ombudsperson, or another mutually acceptable third party who is uninvolved in the grade grievance process and can attempt to mediate the dispute informally.

If the grade grievance is resolved between a student and instructor, and results in a grade change, the department chair (or equivalent) shall expeditiously transmit the case in writing to COCI. The department chair must provide a brief description of the circumstances involved in the case, and state and explain any assent or objection to the proposed grade change. COCI will treat proposals transmitted without explicit assent or objection as being uncontested by the department chair. In addition, COCI requires a written statement from the student consenting to the proposed change (e-mail is acceptable).

If COCI approves the proposed change, it will then instruct the Office of the Registrar to make the change in the student's record. Once COCI has acted upon a proposed grade change, the Committee's decision shall be communicated in writing to the student, instructor, and department chair.

If, and only if, these informal procedures have failed to settle the matter, and the one-year time limit (outlined below) has not expired, the student may initiate the following grievance process. The grounds for a successful grade grievance are specifically laid out in the procedures, but in cases where a student insists on pursuing a formal grade grievance, the department is obliged to follow the procedures – i.e., the department cannot make its own determination as to the validity of the student's case.

III. Formal Grievance Process.

A. *Ad Hoc Grievance Committee*

Each department (or other instructional unit) shall, through its normal procedures for appointing departmental officers, annually establish a standing grievance committee chair who is not the chair of the department. For each case, the grievance committee chair or in the absence of such a chair, the department chair will appoint an ad hoc grievance committee composed of three faculty members[2] including the grievance committee chair, one other faculty member from the same unit,[3] one faculty member from a different unit; and two students in good

[2] A faculty member is considered to be a member of the Berkeley Division of the Academic Senate.

[3] Drawing from Berkeley Division Regulation A207.B (Grade Appeals: Appeal of Grades in Courses and Examinations), a unit is defined as "a department or other instructional unit, or group of units teaching similar disciplines."

standing who will be appointed by the student association(s) of the unit(s).[4] The instructor of record cannot be a member of this committee; if the instructor of record is the standing grievance committee chair, the department chair will appoint another faculty member to chair the ad hoc grievance committee. The grievance committee chair is a regular voting member of this committee.

It is important to follow the steps for forming the ad hoc grievance committee and assembling the various documents precisely, since the procedure is intended to guarantee the most equitable treatment of all parties.

In cases where multiple grievances are presented (e.g., more than one student grieving grades from the same course, or one student grieving grades from more than one course), a single ad hoc grievance committee may review the cases with the student's (or students') written consent (e-mail is acceptable). Otherwise, each grievance must be reviewed by a separate non-overlapping ad hoc grievance committee.

B. Process

The student must initiate the formal grievance process within one calendar year since the last day of the semester in which the final grade for the course was posted.[5] The formal process is initiated when the student submits the casein writing to the department chair. The case must specify the grounds on which the grade is being challenged. **Only grounds consistent with those listed in Berkeley Division Regulation (BDR) A207 (see Section I of this document) can be considered relevant for purposes of challenging a grade.** If relevant grounds are not specified, the formal grade grievance process cannot proceed. As stipulated by Regulation A207, the formal grievance process at the departmental level must be completed within twenty (20) working days of receipt of the student's formal grievance (if both parties are in residence and the University is in regular session,[6] excluding summer session). [7] The case must include the following:

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[4] Per Berkeley Division Regulation A207.B. (Grade Appeals: Appeal of Grades in Courses and Examinations), "When no such association exists, students shall be requested by the ASUC or the Graduate Assembly. (Student members must have passed courses or an examination in the unit(s) at least at the level of the disputed course or examination; at least one student member have been in residence for at least one year.)"

[5] If the student and instructor agree to a resolution at any time during the formal grievance process, then that process is terminated. The student's consent must be stated in writing (e-mail is acceptable).

[6] The regular session is considered to begin the first day of instruction and end on the last day of examinations.

[7] If one or both parties are not in residence at the University, then the chair of COCI, or his/her designated representative, may extend the time limit specified in this procedure by twenty working days so that the grievance procedure can be conducted by mail or some other equivalent means. The COCI

- a description of the basis for the grievance, including the grounds for grievance under BDR A207, and, if it exists, the original work in question;
- a written response from the instructor; if no response from the instructor is provided within five working days, then the department chair can act on behalf of the instructor. Documentation that the instructor was given the opportunity to provide a response must be submitted.
- a written rebuttal by both the student and instructor to the other's position within a five working day deadline; if no rebuttal is presented, there must be documentation, either from the student and instructor or the ad hoc grievance committee, that ample opportunity for submitting one was provided.
- Any additional documentation which the student and instructor judge supportive of their case (e.g., exams, statements by other students, GSIs, chair, etc.).

The ad hoc grievance committee will meet to discuss all these materials. The student and instructor may present additional information in writing to the ad hoc grievance committee prior to the meeting or, at the option of the ad hoc grievance committee chair, in person to the ad hoc grievance committee, but neither party may be present while the other is appearing before the committee or while the committee is deliberating.

Upon the conclusion of its deliberations, the grievance committee chair will report its recommendation in writing, signed by the committee chair, along with any minority views, to the department chair, the student, and the instructor. The department chair will forward all relevant documents and notify COCI in writing of the recommendation within two weeks of receiving the report from the ad hoc grievance committee.

C. Ad Hoc Grievance Committee Remedies

The ad hoc grievance committee's recommendations may include a change of letter grade or grading option (i.e., P/NP, S/U). Four of the committee's five members must consent to the letter grade that is recommended (including the change of grade of D+ and below to a grade of P or the change of a grade of C+ or below to a grade of S).

D. COCI Review

COCI requires the following items for its review of the appeal:

- A written report from the ad hoc grievance committee presenting its recommendation and the rationale behind the recommendation; any minority view(s) must also be given in writing as part of the report. All

chair, or his/her designated representative, may also grant an extension of no more than twenty working days for exceptional circumstances.

members of the ad hoc grievance committee must be identified, and the report must be signed by the committee chair.
- The materials outlined in section B, "Process," which the grievance committee chair presents to the ad hoc grievance committee at its first meeting.

E. COCI Remedies

In accordance with Regulation A207, if COCI finds for the student, it may:
- change a failing grade to a P or S;
- drop a course retroactively;
- retain the course but eliminate the grade from the student's GPA;
- adopt the letter grade, if any, that was recommended by four of the five members of the unit's ad hoc grievance committee.

COCI will conclude its review and notify the concerned parties in writing of its decision in accordance with Regulation A207 within forty (40) working days of receipt of the grade grievance case from the department (if the University is in regular session, excluding summer session).