

MEMORANDUM

To: The Senate Executive Committee

From: Claire Moses, on behalf of the Academic Procedures and Standards Committee of the Senate

Subject: Arbitrary and Capricious Grading Procedures for Undergraduate Students

In December 2007, a proposal to change the university's policy on Arbitrary and Capricious Grading Procedures was sent to the Senate Executive Committee. This document was discussed by the SEC on December 13, 2007 (see minutes, attached). On September 22, 2008, the new APAS committee chair received a memorandum from Ken Holum with instructions to review the proposed changes, keeping in mind specific objections raised by the SEC. The APAS Committee has responded to this request and is prepared to submit a revised policy to the SEC. This memorandum is intended to inform the SEC of our discussions of the September 22, 2008 memorandum, the actions we took as a result of these discussions, and the rationale for our decisions.

1) What were the specific rationales for adding a faculty member from outside the Department and two students to the grievance committee.

The 2008 proposal retains the faculty from outside the Department, but reduces the number of students on the committee to 1, resulting in a committee of 5. We have decided that both changes to the 1990 policy are desirable. In the case of the outside faculty member, our thinking was that this individual lent the committee a higher degree of credibility by reducing the possibility that collegial friendships could sway the grievance committee's final decision. In the case of the addition of 1 student, the APAS committee felt strongly that such a revision was necessary to assure students that this grievance procedure included their voice in the deliberations. The committee noted that university policy in other—but similarly critical—areas include student committee members: on the Senate itself; on the Honor Council; and oftentimes on search and even tenure committees. The example of the Honor Council was arguably the most decisive in our discussion, since decisions that students take on Honor Council deliberations do in fact affect grades. That the university considers students responsible enough for the weighty responsibility of the Honors Council was deemed a significant argument in favor of student representation (now reduced to 1) on a grievance committee.

2-4) What was the rationale for granting the grievance committee...the power to award a passing grade? Should a committee, as opposed to a faculty member, have the power to award a grade? (And: More generally, should students, in a close case, be able to determine a passing grade for another student? Is grading not a faculty responsibility?)

The committee makes this proposal to deal with 2 situations: (1) The committee may determine that the best resolution is to award a student a "pass," and even have the instructor's agreement to that resolution. However, since this involves a change in the grading option for the

course, the instructor on his/her own cannot initiate this change. (2) The instructor may not agree to follow the grievance committee's direction. The first situation is not controversial, since the instructor's agreement to this way of changing the grade was obtained. The second situation is the more controversial.

What happens when a grievance committee determines that an instructor has engaged in arbitrary and capricious grading and directs the instructor to take some form of corrective action—but the instructor refuses to do so? It appears that the 2007 proposal attempted to deal with this by directing the award of a grade of “pass”; as the SEC pointed out, however, this means that someone other than the instructor is changing the student's grade. This is not approved in any university policy of which the APAS committee was aware.

The committee considered this issue in two respects: (1) are there circumstances in which the university would lift the protection it currently provides to all instructors to remain final arbiters of grades? And (2) If so, what procedures should be followed? To date, it appears that the university has deemed instructors' rights to evaluate their students sacrosanct. It is this very question that initiated the original request (from Kathy Beardsley in BSOS to Donna Hamilton to the SEC). Evidently, faculty who were found by a formal grievance procedure to have graded “arbitrarily and capriciously” simply refused the grievance committee's direction to do something to right this wrong. According to the 1990 policy (still the current policy), there was simply nothing that could be done under these circumstances—making of the grievance policy a sham. It is just such cases—the refusal of faculty to follow the grievance committee's direction—that had been brought to the attention of the Dean.

The APAS Committee believes strongly that faculty grading rights should not remain unlimited. Indeed, it is the very purpose of this policy to outline the circumstances under which this right might be restricted and the procedures for so doing. It is important to note that both the 1990 policy and the proposed revised policy describe arbitrary and capricious grading very stringently. Being a “tough grader” is NOT “arbitrary and capricious.” However, using the power to grade as a tool of sexual harassment or criteria based on the race (etc.) of the student are examples of arbitrary and capricious grading. Given the careful delineation of what constitutes improper grading described in this document, the APAS committee urges the SEC (and subsequently the full Senate) to recognize that safeguarding a faculty member's right to evaluate and grade students is not always in keeping with the rights afforded students by other university policies and even by state and national law and to take the necessary steps to protect students in their rights.

Indeed, the greatest portion of the APAS committee's discussion of this topic was spent in consideration of even greater latitude for changing a student's grade—for example, to a different letter grade—but decided against this. Our compromise was to point to the narrow criteria for defining arbitrary and capricious grading; to limit to a “pass” the extent to which a grade could be changed; and to clarify the procedure by which a student determined to be aggrieved could find redress.

In the 2007 document, final authority for implementation is placed on the department chair. In this document, final authority is with the dean of the college, in consultation with the chair. This follows university procedures for placing authority for changes in grades ultimately in the office of the dean.

Miscellaneous changes:

1) Following a statement by Sandy Mack, from the minutes of the SEC's December 13, 2007, meeting: changes assuring formal procedure rights to 2d-semester seniors was added.

2) Clarifications about the "grievance committee," which in some cases in the 2007 document was treated as a standing committee and in other places in the document as an ad hoc committee. In several cases, this led to the substitution of the department's director for undergraduate studies for the chair of the grievance committee.

3) Given that we never had any idea whether formal grievances were numerous or very rare, or whether there were many instances of instructors disregarding the grievance committee's findings (the complaint that was brought to the SEC), we have proposed that a record of all formal grievance proceedings be maintained in the Office of the dean of Undergraduate Studies.

All changes to the 2007 document (except corrections of trivial typos) appear in red.

Arbitrary and Capricious Grading Procedures for Undergraduate Students

General Comments

Jurisdiction over grade grievances lies within academic **units (hereafter departments)**. The University considers grades to be a matter of academic judgment and subject to challenge only on the following three grounds:

1. application of non-academic criteria, such as considerations of race, politics, religion, sexual orientation, sexual identity, disability, or other criteria that do not directly reflect a student's performance as related to course requirements;
2. sexual harassment;
3. improper academic procedures that unfairly affect a student's grade.

Proper academic procedures

1. Proper academic procedures require grading be based solely on the instructor's evaluation of how well a student's performance (project, paper, exam answers, or student participation) addresses a specific requirement. This evaluation can involve elements of recall and analysis 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 and quality of the answer (project, paper, exam answers, or student participation) to the question asked (assignment given), there is no basis for considering any such evaluations improper.

2. The course work of all students should be judged by the same standards, i.e., equivalent answers or work should get equivalent grades.

3. Instructors should articulate (preferably in writing) the bases on which grades will be assigned for a course. Course assignments and grading standards should not change substantially or unreasonably from the originally articulated basis.

Stage 1: Informal Grievance Procedures

A student who believes his or her final grade in a course is improper and the result of arbitrary and capricious grading must first discuss the issue with the instructor. If the instructor has left the university, is on approved leave, or cannot be reached after a reasonable effort, the student may contact the department's director of undergraduate studies or the department chair who can attempt to mediate the dispute informally.

If the grade grievance is resolved between the student and the instructor and results in a grade change, a change of grade form, signed by the instructor, the chair of the department, and the college dean should be submitted to the registrar's office.

If the student and the instructor are unable to reach agreement on the student's grade for the course, the student may file an appeal. **The department chair or director of undergraduate studies**

shall make available a copy of this policy and advise the student on the elements of a written appeal, but should not determine the outcome of the disagreement between instructor and student. The appeal must be made in writing to the department chair. If the chair is the course instructor, the appeal should be addressed to the dean of the college. Normally, the written appeal must be made within 30 working days (excluding Saturdays and Sundays) after the first day of instruction of the next semester (excluding winter and summer terms).

The department chair (or college dean in those cases where the chair is the instructor), in consultation with the department's director of undergraduate studies, will make a preliminary determination about the grievance, taking into account that a grievance based on the argument that one instructor's grading standards are stricter than another's; or on minor imprecisions in grading, will not be considered appropriate for consideration by a grievance committee.

Stage 2: Formal Grievance Procedures

If the department chair and the director of undergraduate studies believe a grievance should proceed to the formal level, the chair will appoint an ad hoc grievance committee to consider the appeal. This grievance committee will consist of 1) the director of undergraduate studies, who shall be a voting member and chair of the committee; 2) two additional tenured members of the department (not to include the instructor); 3) a tenured member of another department; 4) an undergraduate student. The student member of the committee will be appointed by the department's undergraduate association. If no such association exists, the department chair will appoint the undergraduate student. Normally, the student representative will be a third- or fourth-year major in the department.

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 grievance committee may review the cases with the student's or students' written consent (email is acceptable). Otherwise, each grievance must be reviewed by a separate grievance committee.

The grievance committee should reach a decision within 20 working days from the time the formal grievance is submitted to the department chair. In exceptional circumstances, the committee's meeting time may be extended for an additional 20 days, but in no case should it extend beyond the end of the semester in which a formal grievance procedure is initiated.

Procedures

The grievance committee will solicit the following information for its first meeting:

1. The student's written appeal;
2. the original work in question, if it exists;
3. a written response from the instructor;
4. a written response by both the student and the instructor to the other's position. If no response is presented, there must be documentation that each person had sufficient

opportunity to submit a rebuttal.

After discussion of the above material, the grievance committee will conduct a fact-finding meeting separately with the student and the instructor. Neither the student nor the instructor shall be accompanied by an advocate or representative. Each may present additional relevant information at the meeting. The meeting will not be open to the public. If either the student or the instructor is away from the university and unable to attend the meeting in person, she or he may participate by videoconferencing. The committee may also meet with the student and the instructor together, if it believes such a meeting would be desirable and useful, but such a joint meeting is not required.

Remedies

The grievance committee will deliberate privately following the fact-finding meeting. If a majority of the committee finds the allegation is supported by clear and convincing evidence, it shall determine an appropriate remedy from among the following options:

1. direct the instructor to grade the student's work anew, in accordance with the committee's findings; or
2. direct the instructor to administer a new final examination or paper for the course.

The grievance committee may also decide on a remedy that can be implemented only by the department chair or dean of the college. In such cases, the instructor's agreement should be sought but is not required. The department chair, or the dean of the college, may also implement one of the following remedies in a case where the instructor refuses to comply with the grievance committee's finding.

- 1) The student is withdrawn from the course (and tuition is reimbursed). This retroactive drop will not include a W on the student's record. The student may elect to take the course again with a different instructor. Or
- 2) The student is withdrawn from the course section of a course. Another section of the course with a designated faculty member (usually the department chair or the director of undergraduate studies) is placed on the semester schedule (retroactively) by request of the dean of the college to the Registrar's Office. The grading option for this new section will be pass/fail. A grade of C is submitted in which a P now shows up on the student's transcript. If the course requires a letter grade for graduation, the registrar shall be directed to accept the course with the passing grade or to allow the substitution of another course for the requirement. If appropriate the committee may also direct that a formal letter be placed in the student's file, explaining the reasons for the awarding of a P/ passing grade, if that has been the resolution.

The grievance committee chair will report its decision in writing, along with any minority view, to the department chair, the student, and the instructor. The discussions and conclusions of the grievance committee should be considered confidential by all members of the committee.

Second-Semester Seniors

Second semester seniors who believe they have been unfairly graded and need a higher grade in a course to graduate are encouraged to pursue the informal procedure immediately. **This recommendation does not remove such students' rights as set out in this document.**

Maintaining Records

The Office of the Dean for Undergraduate Studies shall serve as a repository for records of all formal grievance procedures. This record should include the original formal appeal, the grievance committee report, and a statement by the department chair of the resolution of the grievance committee's finding. The department chair is responsible for transmitting this information to the Office of the Dean of Undergraduate Studies.



Consolidated USMH & UMCP Policies and Procedures Manual

III-1.20(B) UMCP PROCEDURES FOR REVIEW OF ALLEGED ARBITRARY AND CAPRICIOUS GRADING--UNDERGRADUATE STUDENTS

APPROVED BY PRESIDENT DECEMBER 4, 1990

PURPOSE

The following procedures are designed to provide a means for undergraduate students to seek review of final course grades alleged to be arbitrary and capricious. Before filing a formal appeal, students are urged to resolve grievances informally with the instructor and/or the administrator of the academic unit offering the course. Students who file a written appeal under the following procedures shall be expected to abide by the final disposition of the appeal, as provided in Paragraph E, below, and shall be precluded from seeking review of the matter under any other procedure within the University.

DEFINITIONS

When used in these procedures:

- A. The term "arbitrary and capricious" grading means:
 1. the assignment of a course grade to a student on some basis other than performance in the course; or,
 2. the assignment of a course grade to a student by resorting to unreasonable standards different from those which were applied to other students in that course; or,
 3. the assignment of a course grade by a substantial, unreasonable and unannounced departure from the instructor's previously articulated standards.
- B. The words "day" or "days" refer to normal working days at the University, excluding Saturdays, Sundays and University holidays.
- C. The word "administrator" is defined as the administrative head of the academic unit offering the course.

PROCEDURES

- A. A student who believes his/her final grade in a course is improper and the result of arbitrary and capricious grading should first confer promptly with the instructor of the course. If the instructor has left the University, is on approved leave, or cannot be reached by the student after a reasonable effort, the student shall consult with the administrator. If the student and the instructor or administrator are unable to arrive at a mutually agreeable solution, the student may file an appeal within twenty days after the first day of instruction of the next semester (excluding summer terms) to a standing committee consisting of three tenured faculty members of the academic unit

offering the course. If the instructor of the course is a member of the committee, that instructor shall be disqualified and replaced by a tenured faculty member selected by the administrator.

- B. The student shall file an appeal by submitting to the committee a written statement detailing the basis for the allegation that a grade was improper and the result of arbitrary and capricious grading, and presenting relevant evidence. The appeal shall be dismissed if:
1. the student has submitted the same, or substantially the same complaint to any other formal grievance procedure; or,
 2. the allegations, even if true, would not constitute arbitrary and capricious grading;
 3. the appeal was not timely; or,
 4. the student has not conferred with the instructor or with the instructor's immediate administrative supervisor, in accordance with Paragraph A of these procedures.
- C. If the appeal is not dismissed, the committee shall submit a copy of the student's written statement to the instructor with a request for a prompt written reply. If it then appears that the dispute may be resolved without recourse to the procedures specified in Paragraph D, below, the committee will attempt to arrange a mutually agreeable solution.
- D. If a mutually agreeable solution is not achieved, the committee shall proceed to hold an informal, non-adversarial fact-finding meeting concerning the allegations. Both the student and the instructor shall be entitled to be present throughout this meeting and to present any relevant evidence, except that the student shall not be present during the discussion of any other student. Neither the student nor the faculty member shall be accompanied by an advocate or representative. The meeting shall not be open to the public.
- E. The committee shall deliberate privately at the close of the fact-finding meeting. If a majority of the committee finds the allegation supported by clear and convincing evidence, the committee shall take any action which they feel would bring about substantial justice, including, but not limited to:
1. directing the instructor to grade the student's work anew; or
 2. directing the instructor to administer a new final examination or paper in the course; or
 3. directing the cancellation of the student's registration in the course; or
 4. directing the award of a grade of "pass" in the course, except that such a remedy should be used only if no other reasonable alternative is available. The committee is not authorized to award a letter grade or to reprimand or otherwise take disciplinary action against the instructor. The decision of the committee shall be final and shall be promptly reported in writing to the parties. The administrator of the academic unit shall be

responsible for implementing the decision of the committee.

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