



San José State
UNIVERSITY

A campus of The California State University

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S07-6

At its meeting of May 14, 2007, the Academic Senate passed the following Policy Recommendation presented by Senator Meldal for the Instruction and Student Affairs Committee.

POLICY RECOMMENDATION
Student Fairness Dispute Resolution

Rescinds S97-8

- Whereas: Responsibility for recommending resolutions for grade disputes and student grievances is the charge of the Student Fairness Committee, and
- Whereas: The merging of the Academic Fairness Committee and the Student Grievance Committee did not achieve a fully unified process, and
- Whereas: The appropriate basis for appeals for grade changes should be clearly stated, and
- Whereas: The appeals process should be structured so as to avoid perceptions of collegial conflicts of interest, and
- Whereas: The Board of Academic Freedom and Professional Responsibility is well suited to make a decision after hearing appeals of grade disputes and grievances brought by faculty and other University employee(s).
- Whereas: Greater efficiency and fairness will be achieved by instituting these changes, therefore, be it
- Resolved: That the attached policy be implemented, rescinding S97-8.
- Rationale: The judicial proceedings handling student conduct code violations should be separated from the processes handling student disputes with other members of the university community. Specifically, grades resulting from cheating are not a matter of student fairness. Furthermore, the appeals process should not go back to the home college of the faculty member involved in the dispute, as that could lead to perceptions of conflicts of interest.

Approved: April 30, 2007

Present: Dorosz, Leddy, Meldal, Rudy, Sofish, David, Dresser, Fee, Hansen,
Hamill
Absent: Bridgeman, Campsey, Dresher, Gutierrez, Kelley, Reyes,
Rowen, Thompson
Vote: 10/0/0
Financial Impact: None
Workload Impact: Slight reduction

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;
- Two University staff (non-management) representatives

The University Ombudsman shall be an *ex officio* member of the committee, without vote.

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

3. 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.

4. If the SFC is involved in any specific case at the time a member's term expires, if 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.

5. Any member of the SFC may disqualify him or herself from consideration of a specific case and abstain from voting on the committee recommendation.

6. 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. The challenge of 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 and Grievances

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 792. "There is a presumption that grades assigned are correct. It is the responsibility of anyone appealing an assigned grade to demonstrate otherwise" (EO 792).

The SFC will 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. Grounds for 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.

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.

III. Student Rights and Responsibilities in the Process

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.

The grievant is responsible for presenting evidence to substantiate all claims.

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.

IV. Grades Dispute and Grievance Process

A student involved in a dispute must first attempt to resolve the matter with the other party. If an agreement is not reached, the student should seek the aid of the University Ombudsman or the immediate supervisor of the other party. Students may seek the counsel of the Ombudsman before speaking with parties directly involved in the conflict. If this informal process fails to resolve the matter, the following procedures are to be followed:

Petitions shall be filed with the SFC through the University Ombudsman office. The University Ombudsman will 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 Ombudsman to the SFC. The SFC Chair will review the petition and if determined to be appropriate the SFC will assign the case to a subcommittee for further investigation.

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

The subcommittee will 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 finding 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 will 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 will exhaust all campus options for the student and the case is closed.

If the SFC finds in favor of the student a written statement, with rationale for the decision shall be mailed to the university employee(s) and their immediate supervisor(s). They will 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) will submit their written intent to the SFC chair and after the corrective action is completed the case is closed. The student will 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 will 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 will 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 will 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 will receive written notice and rationale for the decision. The student will 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 will 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 Ombudsman office.

VII. Annual Committee Reports

The SFC in conjunction with the Ombudsman 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.

**ACTION BY THE UNIVERSITY PRESIDENT: Approved by President Don Kassing on
May 17, 2007**