

Graduate Appeal Procedure

(Approved by the Graduate Council, April 27, 1998)

PURPOSE AND SCOPE

The purpose of this procedure is to afford Berkeley graduate students an opportunity to resolve complaints about dismissal from graduate standing, placement on probationary status, denial of readmission to the same program (if the student was previously in good standing), disputes over joint authorship of research in accordance with joint authorship policies of campus departments or units, and other administrative or academic decisions that terminate or otherwise impede progress toward academic or professional degree goals. This procedure is not available to appeal denial of admission to any program.

The scope of this procedure is limited to the matters listed above, and excludes complaints regarding student records, grades in courses of instruction, student employment, student discipline, and auxiliary student services (such as housing, child care, etc.). This procedure may not be used for complaints regarding actions based solely on faculty evaluation of the academic quality of a student's performance, or decanal evaluations of a student's appropriate academic progress, unless the complaint alleges that the actions may have been influenced by non-academic criteria as identified in section II.B.2 of this procedure.

This procedure is provided for continuing and returning graduate students in the Graduate Division on the Berkeley campus. It may not be used by applicants for admission, Juris Doctor students in the School of Law who are appealing disqualification or the terms of probation, or students registered in graduate courses through the University Extension, the Graduate Theological Union, or other cross-registration agreements. A student may bring a complaint individually or may file a complaint jointly with other students when each claims injury as a result of the same alleged action(s).

Graduate students may contact the Office of the Ombudsman for Students for informal assistance with complaint resolution. The Associate Deans of the Graduate Division also may be consulted for informal resolution at any stage of the process. Civil law remedies, including injunctions, restraining or other court orders, and monetary damages also may be available to complainants.

THE APPEAL PROCESS

I. UNIT LEVEL INFORMAL RESOLUTION PROCEDURES

A. Department Level Complaints

For complaints regarding actions originating within the student's major department, school, college or graduate group, the student must first attempt resolution at the unit level by following the unit level complaint resolution procedures. The unit level procedures may include informal and formal complaint resolution processes. Copies of the unit level complaint resolution procedures may be obtained from the Chair of Graduate Advisers in each unit. If a mutually satisfactory resolution cannot be reached at the unit level, the complaint may be brought to the Graduate Division under the Formal Appeal Procedures outlined below.

B. Division Level Complaints—Informal Resolution

For complaints regarding actions originating within the Graduate Division or with the Administrative Committee of the Graduate Council, the student may first initiate informal resolution with the Dean or an

Associate Dean of the Graduate Division. If a mutually satisfactory resolution cannot be reached through informal resolution, the complaint may be brought under the Formal Appeal Procedures outlined below.

Time Limits: Attempts at unit level resolution or informal resolution with the Graduate Division must be initiated within thirty days from the time at which the student knew or could reasonably be expected to have known of the action being appealed. The unit level or Graduate Division informal procedures should normally be concluded within 60 days of the date resolution was initiated.

C. Complaints Involving Sexual Harassment

Students with complaints involving allegations of sexual harassment which would otherwise fall under the jurisdiction of the Graduate Appeals Procedure may attempt resolution under the Berkeley Campus Policy on Sexual Harassment and Complaint Resolution Procedures prior to bringing their complaint under the Graduate Appeals Procedure.

If the complainant is not satisfied with the resolution provided by the Sexual Harassment Complaint Resolution Procedures, the complainant may proceed directly to the Formal Appeal Procedure outlined below. In such cases, any allegations of sexual harassment investigated under that procedure will not be reinvestigated in the Formal Appeal. The individual or committee in charge of the investigation pursuant to a Formal Appeal will rely on the fact-finding report made by the Complaint Resolution Officer pursuant to the Sexual Harassment Complaint Resolution Procedure. All matters involving academic or administrative decisions that interfere with the graduate student's academic progress are under the exclusive jurisdiction of the Graduate Appeals Procedure.

Complaints involving sexual harassment that are brought pursuant to the Sexual Harassment Complaint Resolution Procedures may be brought within the time frames indicated in those procedures.

II. FORMAL APPEAL PROCEDURE

A. Content of the Formal Appeal

Complaints under the Formal Appeals Procedure must be initiated by a written statement indicating the action(s) being appealed and the date(s) the action(s) occurred, the grounds upon which the appeal is based, and the relief requested. The written statement may include a request for a personal appearance before the investigative officer, if desired, and notice to the Graduate Division if the student bringing the appeal will be represented by counsel or other representative. The written statement should also include a description of the results of the unit level informal resolution process, and any background information that the student deems pertinent to the case.

B. Grounds for Formal Appeal

A formal appeal may be brought if based upon one or more of the following grounds which had material impact on the student's academic standing or credit for research:

1. Procedural error or violation of official policy by academic or administrative personnel;
2. Judgments improperly based upon non-academic criteria including, but not limited to, discrimination or harassment on the basis of race, color, national origin, religion, sex, disability, age, medical condition (cancer related), ancestry, marital status, citizenship, sexual orientation, or status as a Vietnam-era veteran or special disabled veteran;
3. Special mitigating circumstances beyond the student's control not properly taken into account in a decision affecting the student's academic progress.

C. Time Frames for Formal Appeal

If the action being appealed originated within the student's major department, school, college or graduate group, the formal written appeal must be received in the Office of the Dean of the Graduate Division within fifteen days of the notification of the result of the unit level resolution process.

If the action being appealed originated with the Graduate Division or the Administrative Committee of the Graduate Council, the written appeal must be received in the Office of the Dean of the Graduate Division within thirty days from the time the student knew or could reasonably be expected to have known of the action being appealed, or within fifteen days of the notification of the result of the informal resolution process if the student attempted informal resolution through the Graduate Division.

If the action being appealed was investigated pursuant to the Sexual Harassment Complaint Resolution Procedures, the written appeal must be received in the Office of the Dean of the Graduate Division within fifteen days of the notification of the result of the sexual harassment complaint resolution process.

The Formal Appeal should generally be concluded within ninety days of the date it was received by the Office of the Dean of the Graduate Division.

D. Procedure for Processing Formal Appeals

For complaints regarding actions originating within the student's major department, school, college, or graduate group, the Dean of the Graduate Division may:

1. conduct the investigation and make a decision for final action; or,
2. assign an Associate Dean, an ad hoc committee or another campus official to conduct the investigation and make a recommendation to the Dean for final action; or,
3. refer the case to the Administrative Committee of the Graduate Council (which the Dean chairs) to conduct the investigation and either make a decision regarding final action or make a recommendation to the Dean for final action, depending on the nature of the complaint and relief requested. (See section II. F.)

For complaints regarding actions originating with the Graduate Division, or the Dean of the Graduate Division, the appeal will be referred to the Administrative Committee of the Graduate Council for final action in all matters. For complaints regarding actions by the Dean of the Graduate Division, the Dean will be excused from serving as chair of the Administrative Committee. In such cases, the Chair of the Graduate Council, who is also the Vice Chair of the Administrative Committee, will be in charge of the Administrative Committee's investigation and final action.

The Graduate Division will notify the student regarding which individual or committee will be in charge of processing the Formal Appeal within 15 days of the receipt of the written statement initiating the Formal Appeal.

E. Investigation of Formal Appeals

All Formal Appeals will be investigated according to the following procedures. Nothing in these procedures shall be interpreted as precluding further attempts at informal resolution before a final decision is made.

The individual or committee in charge of the investigation will:

1. consult with the appropriate campus compliance officer regarding all complaints that include allegations of discrimination or harassment on the basis of sex, race, national origin, color, age, religion, sexual orientation, or disability (see section IV.C.);

2. forward a copy of the complaint to the individual(s) complained of and ask them to provide written responses within twenty days of receipt (the written responses should include notice to the University if the respondents wish to be represented by counsel or other representative);
3. forward a copy of the responses to the student bringing the complaint;
4. arrange for a personal appearance by the student if the student requested a personal appearance in the written statement initiating the complaint;
5. obtain any other relevant information from other individuals or sources available, including arranging for personal appearances of witnesses as necessary;
6. prepare a written report setting forth the factual findings of the investigation, and either the final decision made, or the recommendation for the final decision to be made.

The Dean of the Graduate Division or the Administrative Committee of the Graduate Council shall notify the student of the final decision on the Formal Appeal within ninety days of the receipt of the written statement initiating the complaint.

F. Final Decision

1. Decisions by the Graduate Dean.

The decision of the Dean of the Graduate Division is final in all complaints pertaining to the following where the complaint originated within the student's major department, school, college or graduate group:

- Readmission to graduate standing
- Petition for change of major
- Changes in program
- Academic probation
- Academic dismissal

2. Decisions by the Administrative Committee.

The decision of the Administrative Committee is final in all complaints concerning the following:

- Composition of committees for higher degrees
- Results of examinations for higher degrees (including special departmental examinations and Master's projects submitted in lieu of the comprehensive examination)
- Acceptability of dissertations and theses
- Actions to lapse or terminate candidacy
- Complaints under this procedure regarding actions originating with the Graduate Division
- All other matters pertaining to the formal requirements for advancement to candidacy and the award of higher degrees except those enumerated above as falling under the Dean's jurisdiction.

Decisions by the Administrative Committee are not, however, meant to limit the Dean of the Graduate Division's ability to take additional appropriate action within decanal authority (except in cases regarding actions originating with the Dean). For example, the Dean could readmit or allow a change of major to a student whose failure on a qualifying examination had been upheld by the Administrative Committee.

III. RECONSIDERATION

A. Grounds

Students may request reconsideration of a decision made by the Dean of the Graduate Division or the Administrative Committee on the following grounds only:

1. New evidence is discovered which was not available by duly diligent effort at the time the decision was made and which materially affects the outcome of the case; or,
2. There is evidence that the Graduate Appeal Procedures described herein were not followed and the failure to follow the procedures resulted in a decision adverse to the student.

B. Procedure and Time Frame for Reconsideration

Students must submit their request for reconsideration in writing to the Office of the Dean of the Graduate Division. The request must be received within thirty days following the date of the notification to the student of the final decision on the Formal Appeal. The Dean or Administrative Committee will notify the student of the final decision concerning the request for reconsideration within thirty days after the request is received.

IV. OTHER INFORMATION

A. Personal Appearance

1. Scope.

Students bringing complaints under the Formal Appeal process have the right to a personal appearance before the individual or committee in charge of the investigation. The scope of the personal appearance shall be limited to matters that were raised by the written complaint or the responses that are within the jurisdiction of this procedure.

2. Notice.

The Graduate Division shall provide the student with fifteen days notice of the time and place of the personal appearance. If the student wishes to be represented by counsel or other representative, the student must notify the Graduate Division in writing at least ten days prior to the date of the personal appearance. The notice should include the name and title of the counsel or representative. This notice will constitute an authorization for the Graduate Division to send the representative copies of relevant student records.

B. Time Frames

All time frames referred to in this procedure refer to calendar days. Summer and inter-semester recesses are not included within these time frames. The Graduate Dean may extend time limits for good cause upon notice to all parties involved in the appeal.

C. Campus Compliance Officers

The campus compliance officers to be consulted pursuant to section II.B.1 are listed below. The names, phone numbers, and campus addresses of these individuals are listed in various campus publications and may be obtained from the Office of the Dean of the Graduate Division or the Academic Compliance Office at (510) 642-2795.

- Academic Compliance Affairs Officer - should be consulted for complaints alleging discrimination or harassment on the basis of race and sexual orientation.

- Title IX Compliance Officer - should be consulted for complaints alleging sexual harassment or discrimination on the basis of sex.
- ADA/504 Compliance Officer - should be consulted for complaints alleging discrimination or harassment on the basis of disability, or cases involving reasonable accommodations for students with disabilities.
- Age Discrimination Act Coordinator - should be consulted for complaints alleging discrimination on the basis of age.

V. OTHER COMPLAINT PROCEDURES

A. Informal Resolution

The Office of the Ombudsman for Students may be able to provide informal assistance, as a neutral party, toward the resolution of the problem. The Associate Deans of the Graduate Division also may be consulted for informal resolution at any stage of the process.

B. Articulation with Other Campus Procedures

1. Guidelines.

All graduate student complaints that include allegations of interference with academic progress must be brought under the Graduate Appeals Procedure. Once a graduate student has brought a complaint under the Graduate Appeals Procedure, he or she may not bring the same complaint under any other campus appeal or grievance procedure, unless there has been a determination on the Graduate Appeal that the complaint is outside the scope of the Graduate Appeals Procedure. The only exception to this guideline is for complaints including allegations of sexual harassment which may be brought under the Campus Policy on Sexual Harassment and Complaint Resolution Procedures prior to the Graduate Appeals Procedure.

Graduate students may have complaints regarding University actions that do not fall within the jurisdiction of the Graduate Appeals Procedure. The list below indicates other complaint procedures available to graduate students for issues that are outside the scope of this procedure.

If a graduate student brings a complaint under a procedure other than the Graduate Appeals Procedure, and the complaint is investigated and a decision is made, a complaint regarding the same facts may not be brought again under the Graduate Appeals Procedure unless there are subsequent events that give rise to allegations of interference with academic progress, or unless the complaint was brought initially under the Sexual Harassment Policy.

For these limited situations where a complaint may be brought under the Graduate Appeals Procedure after it was brought under another campus complaint procedure, the issues investigated in the first procedure will not be reinvestigated pursuant to the Graduate Appeals Procedure. Rather, the Graduate Appeals Procedure will provide a decision with regard to the allegations of interference with academic progress based on the factual findings of the prior procedure.

2. Other Campus Complaint Procedures.

Berkeley Campus Student Grievance Procedure: This procedure should be used for graduate student complaints alleging discrimination based upon race, color, national origin, sex, disability, age, sexual orientation, or inappropriate application of University rules or policies resulting in injury to the student, provided that the complaint does not allege that the discrimination or misconduct interfered with the graduate student's academic progress.

Berkeley Campus Policy on Sexual Harassment and Complaint Resolution Procedures: This procedure should be used for graduate student complaints of sexual harassment where the complaint does not allege interference with academic progress. This procedure may be used to attempt informal resolution of sexual harassment complaints prior to bringing the complaint under the Graduate Appeals Procedure in cases where the complaint does include allegations of interference with academic progress.

Berkeley Campus Policy for Accommodating the Academic Needs of Students with Disabilities: This procedure should be used for graduate student complaints about the provision of appropriate academic accommodations in classes or research in which the student with disabilities is currently participating. Complaints about the provisions of appropriate academic accommodations in classes or research in which the student is no longer participating should be brought under the Graduate Appeals Procedure.

Berkeley Campus Policy Governing Disclosure of Information from Student Records: This procedure should be used for complaints regarding access to student records and for complaints alleging that student records are inaccurate, misleading, inappropriate or otherwise maintained in violation of student rights to privacy.

Regulation A207 of the Berkeley Division of the Academic Senate: This procedure should be used for complaints regarding grades in courses of instruction that are based on the application of non-academic criteria.

Academic Personnel Manual Section 140—Non-Senate Academic Employee Grievance Procedure: This procedure should be used for grievances arising out of graduate student employment.

Academic Rules: University of California at Berkeley School of Law: These rules must be used by Juris Doctor students in the School of Law who are appealing academic disqualification or the terms of probation.

C. Campus Disciplinary Procedures

Complaints brought under the Graduate Appeals Procedure may include allegations of serious misconduct by University students, staff or faculty. Neither the Dean of the Graduate Division nor the Administrative Committee of the Graduate Council has jurisdiction under these procedures to impose discipline in cases of alleged misconduct. In such cases, the aspects of the case that fall within this procedure will be resolved. Any allegations of student, staff, or faculty misconduct will be referred to the appropriate disciplinary procedure for investigation and action where warranted.

University of California at Berkeley Code of Student Conduct: This contains the University guidelines on student conduct and student disciplinary procedures.

Academic Personnel Manual Section 015: This contains the University policy on Faculty Conduct and the Administration of Discipline, including the Faculty Code of Conduct

Staff Personnel Policy, Administrative and Professional Staff Program Policy, Management and Professional Program Policy, Executive Program Policy and Collective Bargaining Agreements: Each of these documents contains conduct guidelines and disciplinary procedures for University employees in these programs.

Guidelines Relating to Misconduct in Science: This document issued by the Chancellor's Office describes procedures for investigating allegations of scientific misconduct.

OTHER CAMPUS DOCUMENTS PERTAINING TO STUDENTS' GRIEVANCES AND APPEALS

1. ***Berkeley Campus Student Grievance Procedure*** (included as Appendix III of Regulations Implementing Systemwide Policies Applying to Campus Activities, Organization, and Students)
<http://uga.berkeley.edu/uga/grievance.stm>

General grievance procedure covering discrimination on the basis of race, color, national origin, sex, handicap, age, and sexual preference, and the inappropriate application of campus rules and policies.

2. ***Plan for Accommodating the Academic Needs of Students with Disabilities***
<http://dsp.berkeley.edu/BerkAcomPolicy.html>

Describes role of various offices to ensure that students with disabilities receive appropriate accommodations in their instructional activities.

3. ***Regulations of the Berkeley Academic Senate, Regulation A207***
<http://academic-senate.berkeley.edu/resources/regs2001.html#207>

Covers the appeal of grades received in courses of instruction.

4. ***Academic Personnel Manual, Section 140, Non-Senate Academic Employee Grievance Procedure***
<http://www.ucop.edu/acadadv/acadpers/apm/apm-140.pdf>

5. ***Berkeley Campus Policy on Sexual Harassment***
<http://www.chance.berkeley.edu/titleix/policies.html>

Covers complaints of sexual harassment by campus employees.

6. ***Academic Personnel Manual, Section 015, Faculty Code of Conduct and Disciplinary Procedures for the Berkeley Campus***
http://apo.chance.berkeley.edu/faculty_misconduct_015.pdf

Covers complaints of misconduct on the part of University faculty.

7. ***Policy Governing Disclosure of Information from Student Records***
<http://registrar.berkeley.edu/GeneralInfo/ferpa.html>

Covers confidentiality of student records, rights of access, and procedures for correcting the content of such records.