

Procedural Guidelines
for the
College of Education Hearing Board
Michigan State University

The "Academic Freedom for Students at Michigan State University" (AFR) and the "Graduate Student Rights and Responsibilities at Michigan State University" (GSRR) documents establish the rights and responsibilities of MSU students and prescribe procedures for resolving allegations of violations of those rights through formal grievance hearings. The AFR and the GSRR also provide guidance for disciplinary procedures when students are accused of academic dishonesty, violating professional standards or falsifying academic records. In accordance with the AFR and the GSRR, the College of Education has established the following College Hearing Board procedures for adjudicating student academic grievances and for conducting disciplinary hearings. [1]

I. JURISDICTION OF THE COLLEGE OF EDUCATION HEARING BOARD:

The College of Education Hearing Board serves as:

(1) the appellate board for hearings initiated at the Department/School level by undergraduate or graduate students. (See AFR 2.4.7; GSRR 5.2.1 and 5.4.12.) [2]

(2) the initial hearing board for cases in which the Dean of the College concurs with a request by the Chair/Director of a department/school to waive jurisdiction for hearings involving undergraduate or graduate students. (See AFR 2.4.2.2; GSRR 5.3.6.2.)

(3) the initial hearing board for disciplinary hearings for graduate students accused of (a) academic dishonesty, (b) violating professional standards or (c) falsifying admission and/or academic records. (See GSRR 5.5.2.)

(4) the initial hearing board for disciplinary hearings for undergraduate students accused of (a) academic dishonesty, (b) violating professional standards or (c) falsifying admission and/or academic records when the students' dean calls for a *disciplinary* action and the students, after meeting with the Assistant Provost for Undergraduate Education, select a college-level hearing rather than an administrative hearing. (See AFR 2.4.6, 4.3.1.1 and 4.3.1.1.1.) [3]

(5) the initial hearing board for cases in which the Assistant Provost for Undergraduate Education randomly selects the College of Education Hearing Board to hear a case of ambiguous jurisdiction, including cases that originate in the Integrative Studies Centers. (See AFR 2.4.6.1.)

II. COMPOSITION OF THE COLLEGE HEARING BOARD:

The College of Education shall constitute a College Hearing Board no later than the beginning of the fall semester of each academic year. The College of Education Hearing Board shall include the Chair of Faculty Advisory Council, or a designee. The membership shall also include two College of Education faculty and two undergraduate

students, for grievances involving undergraduate students, and two graduate students, for grievances involving graduate students, including alternates. The FAC Chair will request that each Department Advisory Council forward the name of 1 volunteer graduate student and 1 volunteer undergraduate student, as appropriate, for service on the Hearing Board. The chair of the Hearing Board shall be a Hearing Board member with faculty rank. Hearing Board members shall serve one calendar year, fall semester through the following summer term. (See AFR 2.4.3; GSRR 5.1.3, 5.1.5 and 5.1.6.) [4]

III. REFERRAL TO THE COLLEGE OF EDUCATION HEARING BOARD:

A. After receiving a written request for a grievance hearing per I 1-5 above, the Dean of the College of Education shall forward the written grievance hearing request to the College Hearing Board members, the respondent, complainant and the student's academic dean-promptly for hearings involving undergraduate students and within **10** class days for hearings involving graduate students. (See AFR 2.4.2.3; GSRR 5.4.3.)

B. The Hearing Board shall meet in a timely manner to review the grievance hearing request for jurisdiction and judicial merit and may invite a written response from the respondent. After considering all submitted information, the Hearing Board, acting as the initial hearing body or as the appellate body, must:

1. accept the request, in full or in part, and proceed with the hearing; or

2. reject the request and provide a written explanation to appropriate parties (the student may appeal this decision);

3. direct the Department/School Hearing Board to rehear the initial decision, or reconsider or clarify its decision; or

4. invite all parties to meet with the Hearing Board in an informal session to try to resolve the matter. (Such a meeting does not preclude a later hearing.)
(See AFR 4.2.5 and 4.4.2; GSRR 5.4.6 and 5.4.12.4.)

C. If the College Hearing Board decides to schedule a hearing, the Chair of the hearing Board shall promptly negotiate a hearing date with the parties and schedule an additional meeting only for the Hearing Board should additional deliberations on the findings become necessary.

At least 3 class days before a scheduled hearing involving an undergraduate student, the Chair of the Hearing Board shall notify the respondent and the complainant in writing of the (1) time, date and place of the hearing; (2) the names of the parties to the grievance; (3) the names of the Hearing Board members, including alternates; (4) the names of the witnesses and counsel, if any; and (5) the right to challenge Hearing Board members because of a conflict of interest. (See AFR 4.2.7,4.3.2,4.4.3 and 8.1.6.)

At least 6 class days before a scheduled hearing involving a graduate student, the Chair of the Hearing Board shall notify the respondent and the complainant in writing of (1) the time, date and place of the hearing; (2) the names of the parties to the grievance,; (3) the names of the Hearing Board members, including alternates; (4) the names of the witnesses and advisors, if any; and (5) their right to challenge the hearing Board membership, both with and without cause. (See GSRR 5.1.7,5.4.7 and 8.1.4. See also III D below.)

At its discretion, the College Hearing Board may set a reasonable time limit for each party to present its case. The Chair of the College Hearing Board must inform the parties of such a limit in the written notification of the hearing.

Non-disciplinary hearings shall be open at the Hearing Board's discretion. Disciplinary hearings shall be closed unless otherwise requested by the respondent and agreed to by the Hearing Board. (See AFR 4.2.3.)

- D. In hearings involving graduate students, either party may remove two members of the Hearing Board without cause no later than 3 class days after receiving notice of the Hearing Board's membership. Further, upon receiving notice of the Hearing Board's membership, either party may request the Chair of the Hearing Board to remove members of the Hearing Board whom the parties believe to be in conflict of interest. The Chair will promptly review the request(s) and report the results of his or her findings in writing to both parties within 3 class days of making the decision. (See GSRR 5.1.2 and 5.1.7)

In hearings involving undergraduate students, no one involved in the case may serve on the Hearing Board. (See AFR 4.2.7.)

- E. If the respondent fails to acknowledge the notice of a hearing, the Hearing Board may either postpone or proceed with the hearing. (See AFR 4.4.5.)

If the complainant fails to appear at the hearing, the Hearing Board may either postpone the hearing or dismiss the case. (See AFR 4.4.7a and GSRR 5.4.9a.) Accommodations via distance technology for those unable to attend in person may be made at the discretion of the Hearing Board.

If the respondent fails to appear at the hearing, the Hearing Board may either postpone the hearing or hear the case in the respondent's absence. (See AFR 4.4.7b and GSRR 5.4.9b.) Accommodations via distance technology for those unable to attend in person may be made at the discretion of the Hearing Board.

In unusual circumstances, the Hearing Board may accept written statements from either party to a hearing in lieu of a personal appearance. These written statements must be submitted to the Hearing Board at least 1 day before the scheduled hearing. (See GSRR 5.4.9c.)

Either party to the grievance hearing may request a postponement of the hearing. The Hearing Board may either grant or deny the request. (See AFR 4.4.6 and GSRR 5.4.8.)

Members of the Hearing Board must not talk about the hearing with either party before the scheduled hearing.

IV. COLLEGE GRIEVANCE HEARING PROCEDURES:

A. General Procedures:

The Chair of the College Hearing Board shall convene the hearing at the designated time, date and place. The Chair will ensure that a collegial atmosphere prevails and enforce time limits, as necessary, for the presentation of arguments. During the hearing, parties to a grievance shall have an opportunity to state their case, present evidence, designate witnesses, ask questions and present a rebuttal. The procedures may be taped. (See AFR 2.4.4, 2.4.4.2; GSRR 5.4.10 and 5.4.10.1.)

To protect the confidentiality of the information, the Chair of the Hearing Board may limit attendance at the hearing to the complainant, the respondent, witnesses for either party, if any, and the counsel/advisor for each party, if any. (See AFR 4.2.3, 8.1.6.)

Witnesses called by either party shall be excluded from the proceedings except when testifying. Witnesses must confine their testimony to their own independent recollection and may not speak for others. The Hearing Board may limit the number of witnesses. Unless otherwise approved by the Hearing Board, advisors and witnesses shall be limited to members of the MSU community (faculty, staff or students). (See AFR 4.3.5 and 8.1.6; GSRR 5.4.10, 8.1.4.)

Involvement of counsel/advisors normally should not be required. Each party must present her/his own case. Counsel/advisors may have a voice in the hearing. (See AFR 2.4.4.2, 4.4.8d; GSRR 5.4.10.)

To assure orderly questioning, the Chair of the Hearing Board must recognize individuals before they speak. All parties have the right to speak without interruption. Each party has the right to question the other party and to rebut any oral or written statements submitted to the Hearing Board. The Chair of the Hearing Board shall enforce announced time limits on each party to present its case and, if necessary, extend equal time to each party.

B. The hearing will proceed as follows:

1. Introductory remarks by the Chair of the College Hearing Board: The Chair of the Hearing Board introduces hearing panel members, the complainant, the respondent and counsel/advisors, if any. The Chair reviews the hearing procedures, including time restraints, if any, for presentations by each party and witnesses. The Chair explains that the burden of proof rests with the complainant, with the exception of hearings involving allegations of academic dishonesty, in which case the instructor bears the burden of proof, which must be met by a "preponderance of the evidence." If the proceedings are to be taped, the Chair must inform the parties. (See AFR 2.4.9 and 8.1.16; GSRR 5.5.1 and 8.1.16.)
2. Presentation by the Complainant: The Chair recognizes the complainant to present without interruption any statements relevant to the complainant's case, including the redress sought. The Chair then recognizes questions directed at the complainant by the Hearing Board, the respondent and the respondent's counsel/advisor, if any.
3. Presentation by the Complainant's Witnesses: The chair recognizes the complainant's witnesses, if any, to present, without interruption, any statement relevant to the complainant's case. The Chair then recognizes questions directed at the witnesses by the Hearing Board, the respondent and the respondent's counsel/advisor, if any.
4. Presentation by the Respondent: The Chair recognizes the respondent to present without interruption any statements relevant to the respondent's case. The Chair then recognizes questions directed at the respondent by the Hearing Board, the complainant and the complainant's counsel/advisor, if any.

5. Presentation by the respondent's Witnesses: The Chair recognizes the respondent's witnesses, if any, to present, without interruption, any statement relevant to the respondent's case. The Chair then recognizes questions directed at the witnesses by the Hearing Board, the complainant and the complainant's counsel/advisor, if any.
 6. Rebuttal and Closing Statement by Complainant: The complainant may refute statements by the respondent, the respondent's witnesses and counsel/advisor, if any, and present a summary statement.
 7. Rebuttal and Closing Statement by Respondent: The respondent may refute statements by the complainant, the complainant's witnesses and counsel/advisor, if any, and present a summary statement.
 8. Final questions by the Hearing Board: The Hearing Board may ask questions of any of the participants in the hearing.
- C. Deliberations by the Hearing Board: After all evidence has been presented, with full opportunity for explanations, questions and rebuttal, the Chair of the Hearing Board shall excuse all parties to the grievance and convene the Hearing Board to determine its findings in executive session. When possible, deliberations should take place directly following the hearing and/or at the previously schedule follow-up meeting. (See III C above.)
- D. Outcome:
1. In non-disciplinary hearings in which the College Hearing Board serves as either the initial hearing body or as the appellate hearing body and a majority of the board finds, based on a "preponderance of the evidence," that a violation of the student's academic rights has occurred and that redress is possible, it shall direct the Dean to implement an appropriate remedy, in consultation with the Hearing Board. If the Hearing Board finds that no violation of academic rights ha occurred, it shall so inform the Dean. (See AFR 2.4.5, and 2.4.6.2; GSRR 5.4.11.)
- In non-disciplinary hearings in which the College Hearing Board is asked to resolve an allegation of academic dishonesty and finds for the student, the Hearing Board shall recommend to the Dean that the penalty grade be removed, the written record of the allegation, if any, be removed from the student's records and a good faith evaluation of the student's academic performance in the course take place. (See AFR 2.4.9.)
2. In disciplinary hearings, in which the College Hearing Board serves as the initial hearing body and in which a majority of the Hearing Board finds, based on a "preponderance of the evidence," that disciplinary action, in addition to or other than a penalty grade, is warranted, it shall recommend to the student's academic Dean the appropriate sanction. (See AFR 2.4.6.2 and 4.2.4; GSRR 5.5.2.)
- If the College Hearing Board finds that no sanction is warranted, resulting in no disciplinary action, the student may then challenge the original penalty grade for academic dishonesty before the Department/School Hearing Board in the Department/School in which the alleged misconduct occurred. (See AFR 2.4.8; GSRR 5.5.1.1.)
- E. Written Report: The Chair of the Hearing Board shall promptly prepare a written report of the Hearing Board's findings, including redress for the complainant, if

applicable, or sanctions, if applicable. The report shall indicate the rationale for the decision and the major elements of evidence, or lack thereof, that support the Hearing Board's decision. (See AFR 2.4.5; GSRR 5.4.11 .)

The report also should inform the parties of the right to appeal within **10** class days following notice of the decision. (See AFR 2.4.7 and 2.4.7.2, 2.4.7.3; GSRR 5.4.12 through 5.4.12.3.) The Chair shall forward copies to the parties involved, the responsible administrators, the Ombudsman and, in hearings involving graduate students, the Dean of The Graduate School. All recipients must respect the confidentiality of the report. (See AFR 2.4.5; GSRR 5.4.11.)

V. APPEALS OF COLLEGE HEARING BOARD DECISIONS:

- A. In hearings involving undergraduate students, either party may appeal the decision of the Hearing Board to the University Academic Integrity Review Board in cases involving (1) an appeal of a penalty grade for academic dishonesty; (2) an initial hearing that occurred at the college level following a request to waive jurisdiction at the department/school level or to hear a case because of ambiguous jurisdiction; or (3) a hearing on alleged violations of regulations involving academic dishonesty, professional standards or falsification of admission or academic records that were referred initially to the College Hearing Board for disciplinary action. (See AFR 2.4.7.1.)
- B. In hearings involving graduate students, either party may appeal a decision by the Hearing Board to the Graduate Student Judiciary *only if the initial hearing occurred at the college level*. The decision of the original hearing board may be appealed by either party to a grievance only to the next level hearing board. (See GSRR 5.4.12.)
- C. All appeals must be in writing, signed and submitted to the Chair of either the Academic Integrity Review Board or the University Graduate Judiciary within 10 class days following notification of the Hearing Board's decision. While under appeal, the original decision of the Hearing Board will be held in abeyance. (See AFR 2.4.7 and 2.4.7.3; GSRR 5.4.12, 5.4.12.2 and 5.4.12.3.)
- D. A request for an appeal of a College Hearing Board decision to either the Academic Integrity Review Board or the University Graduate Judiciary must allege, in sufficient particularity to justify a hearing, that the Hearing Board failed to follow applicable procedures for adjudicating the hearing or that findings of the Hearing Board were not supported by the "preponderance of the evidence." The request also must include the redress sought. Presentation of new evidence normally will be inappropriate. (See AFR 2.4.7.2 and 8.16; GSRR 5.4.12.1 and 5.4.12.2.)

VI. RECONSIDERATION:

If new evidence should arise, either party to a hearing may request the Hearing Board to reconsider the case within 60 days upon receipt of the hearing outcome. The written request for reconsideration is to be sent to the Chair of the Hearing Board, who shall promptly convene the Hearing Board to review the new material and render a decision on a new hearing. (See AFR 4.2.6; GSRR 5.4.13.)

Approved (March 14, 2006)

Explanatory notes from the Ombudsman:

[1] Normally, the complaint process begins at the Department/School level. A student who believes an instructor, including a graduate teaching assistant, has violated her or his academic rights should first attempt to resolve the dispute in an informal discussion with the instructor. (See AFR 2.4.2; GSRR 5.3.1 and 5.3.2.)

Students may not seek redress through a grievance hearing regarding alleged incompetence of instruction. (See AFR 2.2.1 and 2.2.2; GSRR 2.2.1 and 2.2.2.)

If the dispute remains unresolved after discussion with the instructor, the student should consult the Chair/Director of the Department/School in which the dispute as occurred and/or the University Ombudsman for assistance. (See AFR 2.4.2; GSRR 5.3.2.)

If the dispute remains unresolved after discussion with the Chair/Director and/or Ombudsman, the student may submit to the Chair/Director of the Department/School in which the dispute occurred, a written, signed statement requesting a grievance hearing. The statement must (1) specify the alleged violation(s) of academic rights to justify the hearing, (2) identify the individual(s) against whom the grievance is filed and (3) state the redress the student seeks that could be implemented by the Chair/Director. (See AFR 2.4.2 and 2.4.2.2; GSRR 5.3.2, 5.3.5 and 5.3.6.)

A request for a grievance hearing must normally be initiated no later than mid-semester following the semester in which the alleged violation of academic rights occurred (exclusive of summer semester). If the student (the "complainant") or instructor (the "respondent") is absent from the University during that semester, or if other appropriate reasons exist, the Hearing Board may grant an extension to this deadline. If the University no longer employs the respondent before the formal grievance procedures are completed, the grievance may still proceed. (See AFR 2.4.2.1; GSRR 5.3.6.1.)

[2] The references above to the AFR and GSRR documents are not exhaustive. Parties to the grievance hearing should consult the appropriate document. Use of the word "promptly" rather than a specific number of class days occurs in situations when neither the AFR nor the GSRR cites a specific time reference. Copies of the College grievance hearing procedures should be sent to the Office of the Ombudsman and the Dean of The Graduate School. (See AFR 2.4.4.1; GSRR 5.4.1.) Units may decide to develop separate grievance hearing procedures for undergraduate and graduate students.

[3] An undergraduate student referred by the student's dean for disciplinary action for (1) an allegation of academic dishonesty, (2) violating an academic unit's professional standard(s) or (3) falsifying admission or academic records will be asked to meet with the Assistant Provost for Undergraduate Education, who will offer the student an option of a disciplinary hearing by a university administrator or before a college-level hearing board. (See AFR 4.3.1.1 and 4.3.1.1.1. See also *Integrity of Scholarship and Grades* policy.)

If either a graduate student or an undergraduate student wishes to contest an allegation of academic dishonesty, violation of professional standards or falsification of academic or admission records in which the student's dean also has called for a disciplinary hearing, the student may first request a hearing before the hearing board in the department/school in which the alleged violation occurred. This hearing would precede the disciplinary hearing, which would take place in the College in which the violation occurred. (See AFR 2.4.2.2; 2.4.8 and 2.4.9; GSRR 5.5.1.)

[4] At this time, the Dean also should send the complainant and the respondent a copy of the College's grievance hearing procedures.