

# **Graduate Student Academic Grievance Hearing Procedures**

## **For All Graduate Academic Programs in the College of Education**

Students may request a hearing to resolve a dispute with an instructor, but only after trying to settle the matter in conversations with the instructor, the department chair or school director or program director and, in some cases, the associate dean of the college. The student also may consult with the University Ombudsperson at any stage of the dispute. In the event that a student's dispute remains unresolved a grievance hearing may be necessary. This document presents current University policy and procedures for conducting a grievance hearing.

Each right of an individual places a reciprocal duty upon others: the duty to permit the individual to exercise the right. The student, as a member of the academic community, has both rights and duties. Within that community, the student's most essential right is the right to learn. The University has a duty to provide for the student those privileges, opportunities, and protections which best promote the learning process in all its aspects. The student also has duties to other members of the academic community, the most important of which is to refrain from interference with those rights of others which are equally essential to the purposes and processes of the University. (GSRR Article 1.2)

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The *Michigan State University Student Rights and Responsibilities (SRR)* and the *Graduate Student Rights and Responsibilities (GSRR)* documents establish the rights and responsibilities of MSU students and prescribe procedures to resolve allegations of violations of those rights through formal grievance hearings. In accordance with the SRR and the GSRR, all Graduate Academic Programs in the College of Education have established the following Hearing Board procedures for adjudicating graduate student academic grievances and complaints. (See GSRR 5.4.) Each Graduate Academic Program in the College of Education have established their own program specific hearing boards that are in full compliance with the regulations, policies, and procedures set forth in this document.

### **I. JURISDICTION OF THE PROGRAM HEARING BOARD:**

- A. The Hearing Board serves as the initial Hearing Board for academic grievance hearings involving graduate students who allege violations of academic rights or seek to contest an allegation of academic misconduct (academic dishonesty, violations of professional standards or falsifying admission and academic records). (See GSRR 2.3 and 5.1.1.)
- B. Students may not request an academic grievance hearing based on an allegation of incompetent instruction. (See GSRR 2.2.2)

### **II. COMPOSITION OF THE HEARING BOARD:**

- A. The Program shall constitute a Hearing Board pool no later than the end of the tenth week of the spring semester according to established Program procedures. Hearing Board members serve one year terms with reappointment possible. The Hearing Board pool should include both faculty and graduate students. (See GSRR 5.1.2 and 5.1.6.)

- B. The Chair of the Hearing Board shall be the faculty member with rank who shall vote only in the event of a tie. In addition to the Chair, the Hearing Board shall include an equal number of voting graduate students and faculty. (See GSRR 5.1.2, and 5.1.5.)
- C. The Program will train hearing board members about these procedures and the applicable sections of the GSRR. (See GSRR 5.1.3.)

### **III. REFERRAL TO THE HEARING BOARD:**

- A. After consulting with the instructor and appropriate unit administrator, graduate students who remain dissatisfied with their attempt to resolve an allegation of a violation of student academic rights or an allegation of academic misconduct (academic dishonesty, violations of professional standards or falsifying admission and academic records) may request an academic grievance hearing. When appropriate, the Department Chair, in consultation with the Dean, may waive jurisdiction and refer the request for an initial hearing to the College Hearing Board. (See GSRR 5.3.6.2.)
- B. At any time in the grievance process, either party may consult with the University Ombudsperson. (See GSRR 5.3.2.)
- C. In cases of ambiguous jurisdiction, the Dean of The Graduate School will select the appropriate Hearing Board for cases involving graduate students. (See GSRR 5.3.5.)
- D. Generally, the deadline for submitting the written request for a hearing is the middle of the next semester in which the student is enrolled (including Summer). In cases in which a student seeks to contest an allegation of academic misconduct and the student's dean has called for an academic disciplinary hearing, the student has **10** class days to request an academic grievance to contest the allegation. (See GSRR 5.3.6.1 and 5.5.2.2.)
- E. If either the student (the complainant) or the respondent (usually, the instructor or an administrator) is absent from the university during that semester, or if other appropriate reasons emerge, the Hearing Board may grant an extension of this deadline. If the university no longer employs the respondent before the grievance hearing commences, the hearing may proceed. (See GSRR 5.4.9.)
- F. A written request for an academic grievance hearing must (1) specify the specific bases for the grievance, including the alleged violation(s), (2) identify the individual against whom the grievance is filed (the respondent) and (3) state the desired redress. Anonymous grievances will not be accepted. (See GSRR 5.1 and 5.3.6.)

### **IV. PRE-HEARING PROCEDURES**

- A. After receiving a graduate student's written request for a hearing, the Chair of the Department will promptly refer the grievance to the Chair of the Hearing Board. (See GSRR 5.3.2, 5.4.3.)
- B. Within **5** class days, the Chair of the Hearing Board will:
  1. forward the request for a hearing to the respondent and ask for a written response;

2. send the names of the Hearing Board members to both parties and, to avoid conflicts of interest between the two parties and the Hearing Board members, request written challenges, if any, within **3** class days of this notification. In addition to conflict of interest challenges, either party can challenge two hearing board members without cause (GSRR 5.1.7.c);
  3. rule promptly on any challenges, impanel a Hearing Board and send each party the names of the Hearing Board members. If the Chair of the Hearing Board is the subject of a challenge, the challenge shall be filed with the Dean of the College, or designee (See GSRR 5.1.7.). Decisions by the Hearing Board chair or the College Dean (or designee) on conflict of interest challenges are final;
  4. send the Hearing Board members a copy of the request for a hearing and the respondent's written response, and send all parties a copy of these procedures.
- C. Within **5** class days of being established, the Hearing Board shall review the request, and, after considering all requested and submitted information:
1. accept the request, in full or in part, and promptly schedule a hearing.
  2. reject the request and provide a written explanation to appropriate parties; e.g., lack of jurisdiction. (The student may appeal this decision.)
  3. the GSRR allows the hearing board to invite the two 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. However, by the time a grievance is requested all informal methods of conflict resolution should have been exhausted so this option is rarely used. (See GSRR 5.4.6.)
- D. If the Hearing Board calls for a hearing, the Chair of the Hearing Board shall promptly negotiate a hearing date, schedule an additional meeting only for the Hearing Board should additional deliberations on the findings become necessary, and request a written response to the grievance from the respondent.
- E. At least **5** class days before the scheduled hearing, 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) a copy of the hearing request and the respondent's reply; and (4) the names of the Hearing Board members after any challenges. (See GSRR 5.4.7.)
- F. At least **3** class days before the scheduled hearing, the parties must notify the Chair of the Hearing Board the names of their witnesses and advisor, if any, and request permission for the advisor to have voice at the hearing. The chair may grant or deny this request. The Chair will promptly forward the names given by the complainant to the respondent and visa versa. (See GSRR 5.4.7.1.)
- G. The Chair of the Hearing Board may accept written statements from either party's witnesses at least **3** class days before the hearing. (See GSRR 5.4.9.)
- H. In unusual circumstances and in lieu of a personal appearance, either party may request permission to submit a written statement to the Hearing Board or request permission to participate in the hearing through an electronic communication channel. Written statements must be submitted to the Hearing Board at least **3** class days before the scheduled hearing. (See GSRR 5.4.9c.)

- I. Either party to the grievance hearing may request a postponement of the hearing. The Hearing Board may either grant or deny the request. (See GSRR 5.4.8.)
- J. At its discretion, the Hearing Board may set a reasonable time limit for each party to present its case, and the Chair of the Hearing Board must inform the parties of such a time limit in the written notification of the hearing.
- K. Hearings are closed unless the student requests an open hearing, which would be open to all members of the MSU community. The Hearing Board may close an open hearing to protect the confidentiality of information or to maintain order. (See GSRR 5.4.10.4.)
- L. Members of the Hearing Board are expected to respect the confidentiality of the hearing process. (See GSRR 5.4.10.4. and 5.4.11.)

## V. HEARING PROCEDURES:

- A. The Hearing will proceed as follows:
  1. Introductory remarks by the Chair of the Hearing Board: The Chair of the Hearing Board introduces hearing panel members, the complainant, the respondent and advisors, if any. The Chair reviews the hearing procedures, including announced time restraints for presentations by each party and the witnesses, and informs the parties if their advisors may have a voice in the hearings and if the proceedings are being recorded. Witnesses shall be excluded from the proceedings except when testifying. The Chair also explains:
    - In academic grievance hearings in which a graduate student alleges a violation of academic rights, the student bears the burden of proof.
    - In hearings in which a graduate student seeks to contest allegations of academic misconduct, the instructor bears the burden of proof.
    - All Hearing Board decisions must be reached by a majority of the Hearing Board, based on a "clear and convincing evidence." (See GSRR 8.1.18.)

(See GSRR 5.4.10.1 and 8.1.18.) For various other definitions, see GSRR Article 8.)
  2. If the complainant fails to appear in person or via an electronic channel at a scheduled hearing, the Hearing Board may either postpone the hearing or dismiss the case for demonstrated cause. (See GSRR 5.4.9a.)
  3. If the respondent fails to appear in person or via an electronic channel at a scheduled hearing, the Hearing Board may postpone the hearing or, only in unusual circumstances, hear the case in his or her absence. (See GSRR 5.4.9-b.)
  4. If the respondent is absent from the University during the semester of the grievance hearing or no longer employed by the University before the grievance procedure concludes, the hearing process may still proceed. (See GSRR 5.3.6.1.)
  5. To assure orderly questioning, the Chair of the Hearing Board will recognize individuals before they speak. All parties have a right to speak without interruption. Each party has a right to question the other party and to rebut any oral or written statements submitted to the Hearing Board. (See GSRR 5.4.10.2.)

6. 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 advisor, if any.
7. Presentation by the Complainant's Witnesses: The Chair recognizes the complainant's witnesses, if any, to present, without interruption, any statement directly 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 advisor, if any.
8. 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 advisor, if any.
9. Presentation by the Respondent's Witnesses: The Chair recognizes the respondent's witnesses, if any, to present, without interruption, and statement directly 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 advisor, if any.
10. Rebuttal and Closing Statement by Complainant: The complainant refutes statements by the respondent, the respondent's witnesses and advisor, if any, and presents a final summary statement.
11. Rebuttal and Closing Statement by Respondent: The respondent refutes statements by the complainant, the complainant's witnesses and advisor, if any, and presents a final summary statement.
12. Final questions by the Hearing Board: The Hearing Board asks questions of any of the participants in the hearing.

## VI. POST-HEARING PROCEDURES

### A. Deliberation:

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 scheduled follow-up meeting. (See Section IV.D above.)

### B. Decision:

1. In grievance (non-disciplinary) hearings involving graduate students in which a majority of the Hearing Board finds, based on "clear and convincing evidence," that a violation of the student's academic rights has occurred and that redress is possible, it shall recommend an appropriate remedy to the Department Chair or School Director. Upon receiving the Hearing Board's recommendation, the Department Chair or School Director shall implement an appropriate remedy, in consultation with the Hearing Board, within 3 class days. If the Hearing Board finds that no violation of academic rights has occurred, it shall so inform the Chair or Director.

The Chair of the Hearing Board shall promptly forward copies of the final decision to parties and the University Ombudsperson. (See GSRR 5.4.11.)

2. In grievance (non-disciplinary) hearings involving graduate students in which the Hearing Board serves as the initial hearing body to adjudicate an allegation of academic dishonesty and, based on "clear and convincing evidence," the Hearing Board finds for the student, the Hearing Board shall recommend to the Department Chair or School Director that the penalty grade be removed, the Academic Dishonesty Report be removed from the student's records and a "good faith judgment" of the student's academic performance in the course take place. If the Hearing Board finds for the instructor, the penalty grade shall stand and the Academic Dishonesty Report regarding the allegation will remain on file, pending an appeal, if any to the College Hearing Board within **5** class days of the Hearing Board's decision. If an academic disciplinary hearing is pending, and the Hearing Board decides for the instructor, the graduate student's disciplinary hearing before either the College Hearing Board or the Dean of The Graduate School would promptly follow, pending an appeal, if any, within **5** class days. (See GSRR 5.5.2.2 and 5.4.12.3)

C. Written Report:

The Chair of the Hearing Board shall prepare a written report of the Hearing Board's findings, including recommended redress or sanctions for the complainant, if applicable, and forward a copy of the decision to the appropriate unit administrator within **3** class days of the hearing. 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. The administrator, in consultation with the Hearing Board, shall then implement an appropriate remedy. The report also should inform the parties of the right to appeal within **5** class days following notice of the decision, or **5** class days if an academic disciplinary hearing is pending. The Chair shall forward copies of the Hearing Board's report and the administrator's redress, if applicable, to the parties involved, the responsible administrators, the University Ombudsperson and the Dean of The Graduate School. All recipients must respect the confidentiality of the report and of the hearing board's deliberations resulting in a decision. (See GSRR 5.4.12 and 5.5.2.2)

## **VII. APPEAL OF THE HEARING BOARD DECISION:**

- A. Either party may appeal a decision by the Hearing Board to the College Hearing Board for cases involving (1) academic grievances alleging violations of student rights and (2) alleged violations of regulations involving academic misconduct (academic dishonesty, professional standards or falsification of admission and academic records.) (See GSRR 5.4.12.)
- B. All appeals must be in writing, signed and submitted to the Chair of the College Hearing Board within **5** 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 GSRR 5.4.12, 5.4.12.2 and 5.4.12.3.)
- C. A request for an appeal of a Hearing Board decision to the College Hearing Board must allege, in sufficient particularity to justify a hearing, that the initial Hearing Board failed to follow applicable procedures for adjudicating the hearing or that findings of the Hearing Board were not supported by "clear and convincing evidence." The request also must include the redress sought. Presentation of new evidence normally will be inappropriate. (See GSRR 5.4.12.1, 5.4.12.2 and 5.4.12.4.)

**VIII. RECONSIDERATION:**

If new evidence should arise, either party to a hearing may request the appropriate Hearing Board to reconsider the case within **30** 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 GSRR 5.4.13.)

**IX. FILE COPY:**

The Chair of the Department shall file a copy of these procedures with the Office of the Ombudsperson and with the Dean of The Graduate School. (See GSRR 5.4.1.)

Approved by Faculty August 4, 2015.