SECTION 337
GRADE APPEALS BOARD

SOURCE: NDSU President
Faculty Senate Policy

The Grade Appeals Board purpose and membership are established in Part XI of the Faculty Senate Bylaws.

GRADE APPEALS BOARD PROCEDURES PREREQUISITES FOR APPEAL:

1. The Board may be utilized only after the student has exhausted possible appeal routes within the college offering the course involved. Each individual college will be expected to specify such appeal routes, but the following guidelines should be adhered to as closely as possible and will apply in the absence of any specialized procedures.

Grade assigned as a result of Policy 335 processes may not be appealed using this policy and its processes.

   a. A student must initiate a request for a change of a grade with the instructor within fifteen (15) instructional days of the first day of the semester immediately following the semester in which the grade was awarded. For Spring Semester courses, the request may be made within fifteen (15) instructional days of the start of Fall Semester, if the student is not enrolled for a Summer term but is enrolled in Fall Semester. An appeal is deemed formally initiated when the student presents the Grade Appeal Form to the instructor. The instructor must date and initial the form at that point. Within five (5) instructional days, the instructor shall inform the student, via NDSU email, of his/her decision, record the steps taken to resolve the appeal and the decision on the Grade Appeal Form, date and sign the Form, and then return the Form to the student.

   b. If there is an unsatisfactory decision, the student must consult the department head, and the dean or a designated college committee, proceeding from one level to the next only after an unsatisfactory decision of the conflict at that level. In the event that the instructor is also the department head or dean, he or she need only be consulted in the capacity of instructor. The student shall have five (5) instructional days following an unsatisfactory outcome of the appeal to continue with the appeal at the next level. At each stage, the individual considering the appeal shall inform the student of his/her decision, record the steps taken to resolve the appeal and the decision on the Grade Appeal Form, and date and sign the Form.

   c. The instructor must be informed of all proceedings in Section b above by the person in charge at the level.

   d. Both the instructor and the student shall have the right at any time during the proceedings to call a meeting of all persons involved in submitting and considering the appeal and, optionally, to invite the Board to send an observer to that meeting.
e. In the event that the instructor is no longer employed by North Dakota State University, or is on leave from the University, the instructor may designate another faculty member from within the department to represent his/her interest in the grade appeal. If the instructor is not available to designate a substitute, the department head shall represent the absent faculty. If the department head cannot act impartially, a substitute shall be designated by the dean.

2. In the event of an unsatisfactory decision within the college, the student may submit a formal written appeal to the Board Chair. Such an appeal shall be made within fifteen (15) instructional days after conclusion of the college proceedings as stated above.

3. In extraordinary circumstances (such as avoiding a clear injustice or mistake, e.g., an instructor leaves, refuses to respond to inquiries about the grade, there is a mathematical error or violation of the syllabus), and after the procedures in Subsection 1 above have been completed, a department head, with approval of the dean of the college, can change a grade without the instructor's approval. In such cases, a note of record shall be filed with the Registrar. An instructor can appeal such a grade change to the Grade Appeals Board pursuant to this Policy. Colleges can adopt procedures to implement this subsection. (Note: The purpose of this provision is to avoid compelling the student to go through the formal appeal to the Grade Appeals Board where the outcome is certain and clear in the student's favor.)

4. The Appeals Board Chair will handle appeals.

5. The Board Chair will send a copy of the appeal document to the instructor within ten (10) instructional days. The instructor will have fifteen (15) instructional days to respond to the student's appeal.

6. The Board Chair will then distribute copies of the appeal document and the instructor's response to all Board members and the instructor within five (5) instructional days. If a Board member is unable to participate in the proceedings, his or her alternate will act for the member.

7. Each Board member (or alternate) must inform the Board Chair in writing within five (5) instructional days indicating whether there is a need to hold a meeting to discuss the appeal. If all of the members indicate that the student has not made a case, the appeal is denied and the student is notified, through NDSU email, within five (5) instructional days of the Board's decision. Otherwise, the Chair will call a meeting of the Board within ten (10) instructional days.

8. At this meeting, the Board will raise any questions unanswered by the appeal and instructor's response. The Board will then vote to decide whether to hold a hearing based on the following criteria: the student presented evidence of prejudicial grading or raised questions of the possibility of prejudicial grading. A hearing will be scheduled within fifteen (15) instructional days if a simple majority of members vote to hold a hearing.

9. If the Board decides to hear the appeal, it shall provide the instructor and student with a copy of any written statement provided to the Board by the other party.

HEARING PROCEDURES


   a) If the Board decides to hear an appeal, it shall designate from among its total membership a panel of seven members to hear the appeal. Four members of the panel shall be chosen by
lot from the faculty membership of the Board, and two additional members of the panel shall by chosen by lot from the student membership of the Board. The seventh member of the panel shall be the Board Chair, who shall serve as a non-voting moderator of the hearing panel. In order to avoid any conflict of interest, a board member who believes that he/she may not be able to hear a case fairly shall recuse him/herself and shall be replaced by his/her alternate. Additionally, the student and the instructor shall each have one peremptory challenge to remove a board member from service on the hearing panel. A challenged board member shall be replaced by his/her alternate. In the event that a challenged board member is an alternate, another member of the board shall be chosen by lot to serve on the hearing panel. The word “Board” shall be used hereafter in these hearing procedures to describe the seven-member hearing panel so elected, or the full Board, in the event it decided to hear an appeal of a hearing panel decision.

b) All hearings are normally open only to those people who are part of the proceedings, unless otherwise arranged by prior mutual written agreement between the student, instructor, and Board Chair.

c) The student, the instructor, and the Board, each shall have the right to be assisted during Board procedures by an advisor or other counsel who may observe the proceedings and advise his/her party. Unless allowed by the Board Chair, the advisor/counsel will not be permitted to address the Board or witnesses.

2. Evidence. Because this is an educational hearing, formal rules of evidence do not apply. Every effort will be made to allow all reasonable and relevant information to be presented for the Board's consideration.

a) The Board shall allow an initial presentation by the student and then by the instructor involved, after which it may call on such other witnesses as it deems necessary. In order to be able to accomplish this, the Board shall have the authority to compel the appearance or testimony of essential witnesses from the NDSU academic community.

b) Hearsay evidence is permitted; the members of the Board may consider such evidence and assign it any weight appropriate by each individual Board member.

c) An absolute right of cross-examination is not granted under this policy. All questions will be directed through the Board Chair. The Board Chair will allow all relevant and reasonable questions to be placed to either party or their witnesses, but retains the right to exclude questions that are redundant or irrelevant to determining responsibility. Persons answering questions will be given reasonable latitude by the Board Chair to respond to those questions fully.

d) Either party or their witnesses before the board will be permitted to elaborate on written documents previously submitted to the board in their oral presentations to the board.

e) Parties planning to bring exhibits to a hearing must generally provide copies of those exhibits to the other parties and the members of the board three (3) instructional days prior to the hearing to allow for a review of exhibits and the development of any pertinent questions. The Board Chair may permit deviations to this time restriction so long as the other party has sufficient time to prepare an adequate response.
f) The Board Chair shall have the right to exclude from the hearing and the record any unreliable, biased or redundant evidence.

g) On questions requiring academic expertise, the Board shall rely heavily on the testimony of other members of the department involved, or throughout the NDSU academic community.

h) In reaching a decision the board shall consider only information produced at the hearing and will evaluate the information using the "more likely than not" standard of proof. The burden of proof shall be on the student to establish that his/her grade should be changed.

i) All hearings of the board will be recorded up to the point of the board's deliberations necessary to render a decision. A copy of the recording shall be retained in the Office of the Provost and Vice President of Academic Affairs for a period not less than three (3) years. The board will allow controlled access to the record for review or transcription by either the student or the instructor.

3. Hearing outline.

a) The Board Chair will call the meeting to order and will introduce the members of the board and their function within the University community.

b) The Board Chair will describe the general outline of the hearing and read the evidentiary rules to the board. The Board Chair will read the following honesty statement.

"The University expects that all information presented in this hearing will be true and correct to the best of each person's knowledge. If a student willfully provides false information, he/she will be in violation of NDSU's Code of Student Behavior. As a result, he/she may be subject to disciplinary action. Dishonest behavior by any faculty or staff member will be reported to that person's supervisor for any necessary disciplinary action."

All potential witnesses will be advised of this honesty statement in advance.

c) The Board Chair will excuse witnesses from the room at this point.

d) The Board Chair will introduce the student who will present the appeal and any evidence.

e) The Board Chair will introduce the instructor who will respond to the student's appeal and present any additional evidence.

f) The student will be allowed to present witnesses, who will be allowed to make statements and may be asked questions by the student, instructor, and/or members of the Board. Questions by both parties must be directed to the Board Chair, who will then determine if the question is relevant to the proceeding, ask if the respondent understands the question, and request a response. At the Board Chair's discretion, questions may be placed directly between parties. Permission to address parties may be withdrawn by the Board Chair at any time.

g) The instructor will be allowed to present witnesses, who will be allowed to make a statement and may be asked questions by the student, instructor and/or members of the Board. Questions by both parties must be directed to the Board Chair, who will then determine if the question is relevant to the proceeding, ask if the respondent understands the question, and request a response. At the Board Chair's discretion, questions may be placed directly
between parties. Permission to address parties may be withdrawn by the Board Chair at any time.

h) The board may compel the attendance of any essential witnesses from the NDSU academic community to present testimony. Such witnesses will be allowed to make a statement and may be asked questions by the student, instructor, and/or members of the board. Questions by both parties may be directed to the Board Chair, who will then determine whether the question is relevant to the proceeding, ask whether the respondent understands the question, and request a response. At the Board Chair's discretion, questions may be placed directly between parties. Permission to address parties may be withdrawn by the Board Chair at any time.

i) Final questions will be permitted by the members of the board, who may question either party and/or their witnesses.

j) The student shall have an opportunity to make a closing statement.

k) The instructor shall have an opportunity to make a closing statement.

l) Both parties and their witnesses will be dismissed for deliberations by the Board and recording will stop at this point. Only board members, the Board Chair, and the Board's counsel/advisor (if designated) may be present during deliberation.

m) The voting members of the Board will determine, by two-thirds majority vote, if the student's appeal should be granted. If the student's appeal is granted, The Board Chair shall propose a revised grade. A second vote shall then be held to determine by simple majority vote whether the proposed grade be accepted by the Board. The grade determination process shall be repeated until the board approves a grade by a simple majority. All votes shall be conducted by secret ballot.

n) The Board Chair will send a written notice of the board's findings to the student, instructor, department head, and dean within ten (10) instructional days of the hearing. If the board votes to change the student's grade, notice shall also be sent to the University Registrar regarding the grade change. The written notice shall include an explanation of the board's rationale in making its decision and a signed copy of the Grade Appeal Form attesting to the board's decision.

4. The Board may not release any information about its investigation to anyone but the parties directly involved. All Grade Appeals information is confidential and may not be disclosed in whole or in part except as provided under the Family Education Rights and Privacy Act (FERPA) or other applicable law or policy.

APPEAL

Either the student or the instructor may request within fifteen (15) instructional days of a hearing panel decision, that the full Board hear an appeal from the decision, citing the material error(s) of process or procedure that affected the outcome by the hearing panel that would justify a new hearing. Appeals of outcome are not permitted. The Board shall meet to consider such a request, but no voting member of the hearing panel shall be eligible to vote on granting a new hearing. Instead, alternate members shall replace those Board members who served on the hearing panel. If a majority of the full Board votes to accept the appeal, it shall proceed to hold a hearing in accordance with the hearing procedures above, again using alternate members in place of those who served on the hearing panel. The Board Chair shall serve as a
non-voting moderator at the appeal hearing, and a two-thirds vote by secret ballot of the full Board shall be required to uphold the student's appeal and approve a change in grade. A separate simple majority vote shall determine what the student's new grade shall be.

The decision of the Board is final.

HISTORY:
New May 15, 1972
Amended May 1986
Amended April 1992
Amended April 2000
Amended April 2001
Amended March 2002
Amended December 2006
Amended October 2007
Amended February 2008
Amended June 2009
Housekeeping August 2009
Housekeeping February 14, 2011
Housekeeping May 31, 2011
Amended November 07, 2011