Policy and Procedures for Appeals of Alleged Arbitrary and Capricious Grading of Doctoral Qualifying Examinations

The University procedures for reviewing alleged arbitrary and capricious grading of doctoral qualifying examinations envision a multi-step process. (Qualifying examinations are defined as any examinations, oral or written, that are necessary, but not sufficient, for admission to candidacy for a graduate degree.) Prior to filing a formal written appeal, the student must engage in an informal attempt to resolve the problem directly with the Chair of the Examination Committee. The Graduate School’s Ombudsperson may be called upon to facilitate resolution if both parties agree. If these informal efforts fail, then the student may file a formal appeal to the Dean of the Graduate School. When such an appeal is received by the Graduate School, the Program will be notified and will receive a copy of the appeal letter. An Appeal Committee of faculty and students established by the Department/Program will then meet to conduct the formal appeal process.

The formal appeal process consists of four phases. In the first phase, the Committee evaluates the student’s written appeal and determines, according to certain established criteria, whether it should be dismissed on procedural grounds or whether the process should move forward to the next phase. In the second phase, the appeal is sent to the Chair of the Examination Committee for a written response.

In the third phase, the Appeal Committee decides if there may be a viable informal solution and if so, pursues it with both the student and the graduate program. If the Appeal Committee does not feel that such an attempt would be feasible or if the effort is unsuccessful, the process moves to phase four, which is the fact-finding phase.

In the fact-finding phase, the student, the graduate director, and a member of the examination committee meet with the Appeal Committee. Each party may make statements to the Appeal Committee and may call witnesses. This phase, however, is both informal and non-adversarial, and neither side may be represented by an advocate. After hearing both sides, the Appeal Committee meets privately to consider the evidence and decide whether the evidence offered in support of the allegation of arbitrary and capricious grading is clear and convincing. If the Appeal Committee supports the allegation, it then has several options for resolving the issue. Whatever the decision of the Appeal Committee, it is binding on both parties and is final; i.e., it may not be appealed elsewhere in the University of Maryland or elsewhere within the University System of Maryland.

Qualifying examinations are defined as any examinations, oral or written, that are necessary, but not sufficient, for admission to candidacy for a graduate degree. Arbitrary and capricious grading applies only to the grade assigned in a doctoral qualifying examination. Arbitrary and capricious grading is defined as any of the following: a) The assignment of a grade to a student on some basis other than performance in the qualifying examination; or b) the assignment of a qualifying examination grade to a student by an unreasonable application of standards different from standards that were applied to other doctoral students, where an objective comparison of students is possible; or c) the assignment of an examination grade by a substantial and unreasonable departure from the graduate program's or the Examination Committee's initially articulated standards or requirements for the doctoral qualifying examination.

The Informal Appeal Process

Before proceeding to a formal appeal, the student should contact the Chair of the Examination Committee and meet, at least once, at some mutually convenient time and place in an attempt to resolve the issue or issues. This meeting should take place within 10 campus business days of the Examination Committee Chair receiving the informal appeal from the student. Campus business days do not include Saturdays, Sundays, and official campus holidays.

If the Examination Committee Chair has left the university, is on approved leave, or cannot be reached by the student, the student should contact the Department/Program Chair. The Department/Program Chair, or a faculty member designated by the Chair, will attempt to resolve the issue.

The Ombudsperson for Graduate Students and/or the Graduate Director may be called upon to facilitate resolution if both parties agree.

The Formal Appeals Process
If the informal process does not resolve the issue, the student must file a written appeal. The written appeal must be received by the Office of the Dean of the Graduate School within 20 campus business days after the first day of instruction of the following semester.

The deadline for appeals of a spring-semester examination, or an examination taken during either semester of summer session, is the 20th campus business day after the first day of instruction of the following fall semester. Appeals of a fall semester examination or a winter term examination must be made by the 20th campus business day after the first day of instruction of the following spring semester.

The letter of appeal should contain the Examination Committee Chair's name, the Graduate Director's name, the date(s) of the examination, and an explanation of why the student believes the examination result was arbitrary and capricious, as defined by the policy. Any relevant supporting evidence should be included with the letter.

Each Program should have a standing committee to hear appeals of arbitrary and capricious grading of doctoral qualifying examinations. The Appeal Committee may be the same committee formed within the Program to hear appeals of arbitrary and capricious course grades. This committee should generally be formed specifically for the purpose of hearing appeals of arbitrary and capricious grading and not a subcommittee of any other committee. The Appeal Committee should normally be appointed at the start of the academic year. The terms of its members should be for at least one academic year.

The Appeal Committee should be composed of two tenured faculty and two graduate students appointed by the Graduate Director of the Program offering the course. In addition, the Dean of the College will appoint one additional member to the Appeal Committee who is a member of the Dean(s) Office staff and who is also a member of the Graduate Faculty. If no such person is available from the Dean(s) Office staff, the Dean will appoint a committee member from a Department/Program other than that of the appellant(s) Department/Program within the college.

No member of the student(s) Examination Committee may also be a member of the Appeal Committee. In such a situation, a substitute member should be appointed by the Graduate Director.

All actions of the Appeal Committee are by majority vote. In the event that the Appeal Committee, at any stage of the process, is unable to reach a majority decision, the Dean of the College or his/her designee, should cast the deciding vote. In the case of inter-college programs, the participating deans may decide which of them will have responsibility for casting the deciding vote.

**The Initial Evaluation Phase**. In this phase, the only task of the Appeal Committee is to review the letter of appeal to determine whether the appeal should be dismissed on procedural grounds or moved forward to the next phase. If any of the specified procedural grounds for dismissal are met, the appeal must be dismissed. The procedural grounds for dismissal are as follows: a) The student did not meet with the Examination Committee Chair to resolve the issue informally; or b) the appeal was not timely (i.e., it arrived later than the 20th campus business day after the first day of instruction of the following semester, as specified above); or c) the student has already submitted the same complaint through another grievance procedure; or d) the allegations, if true, would not constitute arbitrary and capricious grading of a qualifying examination.

During this initial evaluation phase, the Appeal Committee should consider only the student's letter of appeal; it should not seek or consider comments or responses from the Examination Committee, or other faculty or students. During this initial evaluation phase, the Appeal Committee is not to decide the truth of the student's allegation(s); it should accept the student's allegations at face value (i.e., assume for the moment the allegations are true). If, based on its evaluation of the student's letter of appeal, the Appeal Committee decides that one or more of the four procedural grounds for dismissal have been met, the Appeal Committee must dismiss the appeal and the process ends. The Appeal Committee Chair should notify the student, the Examination Committee Chair, the Graduate Director, and the Dean of the Graduate School in writing within 10 campus business days if the appeal is dismissed. The Appeal Committee Chair's letter should include the reasons for the dismissal.

**The Examination Committee's Response Phase**. If the appeal is not dismissed, the Appeal Committee Chair should prompt submit a copy of the student's written appeal to the Chair of the Examination Committee with a copy to the Dean of the Graduate School. The Chair of the Examination Committee should submit a written response to the Appeal Committee Chair within 10 campus business days of receiving the appeal.
The Dispute Resolution Phase. If, after reviewing the Examination Committee's response, the Appeal Committee feels that a solution may be possible, the Appeal Committee should meet with the student and the Examination Committee, separately and/or jointly, to attempt to resolve the dispute. The dispute resolution phase should not generally have a duration longer than 30 calendar days from receipt of the Examination Committee's written response, unless both Committee Chairs agree in writing to continue for a further, brief, specified period. If the Appeal Committee's resolution efforts are successful, both Committee Chairs should sign a memorandum that states the agreed-upon solution. A copy of this memorandum should be placed in the student's file in the Department/Program and a copy should be sent to the Graduate School and to the student. If resolution by the Appeal Committee either is not attempted or is unsuccessful, the Department/Program Chair, the Graduate Director, the Examination Committee Chair, and the Dean of the Graduate School should be promptly notified, and the process advances to the fact-finding phase.

The Fact-Finding Phase. If a solution is not attempted or is not reached through dispute resolution, the fact-finding meeting should be held promptly thereafter. In addition to the Appeal Committee members, the student and the Chair of the Examining Committee should be in attendance. Either party may invite witnesses to give evidence if the Appeal Committee Chair is notified prior to the meeting. The Chair of the Appeal Committee should generally be given at least 24 hours advance notice of the intention to call witnesses. During the fact-finding meeting, both the student and the Examining Committee Chair may present statements, oral or written, to the Appeal Committee as well as other documentation to support their positions. Neither party may be represented by an advocate of any kind. The meeting will not be open to the public. The Graduate School may send an administrator to observe the proceedings, but this observer should not participate substantively in the proceedings themselves. The meeting is to be both informal and non-adversarial; its purpose is to determine the relevant facts in the matter. At the close of the fact-finding meeting, the Appeal Committee will meet privately to consider the evidence presented. If the majority of the Appeal Committee believes that the student has not provided clear and convincing evidence of the allegation of arbitrary and capricious grading of a qualifying examination as defined above, the appeal must be denied. If the majority of the Appeal Committee believes that there is clear and convincing evidence that supports the allegation of arbitrary and capricious grading, the Appeal Committee will decide which of the various actions within its authority (see below) should be taken. The Appeal Committee Chair should notify the student, the Department/Program Chair, the Examining Committee Chair, the Graduate Director, and the Dean of the Graduate School in writing of the Appeal Committee’s decision on the appeal within five campus business days after conclusion of the fact-finding meeting.

The Authority of the Appeal Committee. The Appeal Committee generally has the authority to take any action it believes will bring about substantial justice, except a) it may not direct that a passing grade for the qualifying examination be assigned for the student; and b) it may not reprimand or take disciplinary action against the Examination Committee or any of its members.

The following is a list of possible actions that the Appeal Committee may take. The list is not exhaustive; the Appeal Committee may take other appropriate actions in order to achieve what it believes to be substantial justice. a) The Appeal Committee may direct the Department/Program that the examination be re-graded by a new Examination Committee from within the Program. b) The Appeal Committee may direct the Program that the examination be re-graded by a new Examination Committee from outside the Program. c) The Examination Committee may be directed to administer a new examination. d) The Appeal Committee may direct that a new Examination Committee be formed from within the Department/Program which will administer and grade an entirely new examination. e) The composition of the new Examination Committee will be determined by the Appeal Committee in accordance with the prevailing rules of the Program. At the discretion of the Appeal Committee, the new Examination Committee may have one of its members from outside of the University of Maryland. f) In the event that the qualifying examination was an oral examination, a new oral examination must be administered. In the event of a combined written/oral qualifying examination, a new oral portion must be administered. The Appeal Committee may direct the Program that the examination be re-graded by a new Examination Committee from within the Program. g) In the event that the qualifying examination was an oral examination, a new oral examination must be administered. In the event of a combined written/oral qualifying examination, a new oral portion must be administered. The Appeal Committee may direct that this new examination be administered by an Examination Committee that consists of some or all members of the original Examination Committee or an entirely new committee.

The Appeal Committee's Decision. The decision of the Appeal Committee is final and binding on both parties. The decision may not be appealed to any other body within the University of Maryland or within the University System of Maryland. If, as a result of this appeals process, the student's advisor no longer wishes to advise the student, the Graduate Director will act as the student's temporary advisor for a period of not more than six months to allow the student time to find a new advisor. If the Graduate Director is a member of the Examination Committee, this assignment will be carried out by the Department/Program Chair.

Implementation of the Appeal Committee's Decision. The Director of Graduate Studies and the Department/Program Chair will be responsible to the Dean of the Graduate School for implementing the decision of the Appeal Committee.