

III-1.20(B) UNIVERSITY OF MARYLAND PROCEDURES FOR REVIEW OF ALLEGED
ARBITRARY AND CAPRICIOUS GRADING--UNDERGRADUATE STUDENTS

Approved by the President December 4, 1990, Amended March 5, 2010,
Amended May 9, 2013

PURPOSE

The following procedures are designed to provide a means for undergraduate students to seek review of final course grades alleged to be arbitrary and capricious. Before filing a formal appeal, students are urged to resolve grievances informally with the instructor and/or the administrator of the academic unit offering the course. Students who file a written appeal under the following procedures are expected to abide by the final disposition of the appeal, as provided for in paragraph H, below, and may not seek review of the matter under any other procedure within the University.

DEFINITIONS

When used in these procedures:

- A. The term "arbitrary and capricious" grading means:
 - 1. the assignment of a course grade to a student on some basis other than performance in the course; or,
 - 2. the assignment of a course grade to a student by resorting to unreasonable standards different from those which were applied to other students in that course; or,
 - 3. the assignment of a course grade by a substantial, unreasonable and unannounced departure from the instructor's previously articulated standards.
- B. The words "day" or "days" refer to normal working days at the University, excluding Saturdays, Sundays and University holidays.
- C. The word "Instructor" unless otherwise specified refers to the instructor accused of arbitrary and capricious grading.
- D. The word "Chair" refers here to the head of the administrative unit offering the class. In most cases this will be the Chair of the Department. In the case of nondepartmentalized units and interdepartmental programs, this role should be taken by the Dean (or the Dean's designee).

- E. The word “Committee” refers here to the committee charged with reviewing the appeal.

CONFLICT OF INTEREST

Every effort should be made to avoid conflicts of interest. Participants in the review process must identify and report potential conflicts of interest to the next higher administrative level. The next higher level administrator is responsible for ensuring that conflicts of interest do not compromise the appeal process, and for appointing substitutes as needed to ensure fairness of the process. Under no circumstances may an instructor accused of arbitrary and capricious grading serve on the committee that evaluates the charge. If the accused instructor is the Chair then the student should consult with the Dean.

PROCEDURES

- A. A student who believes his or her final grade in a course is improper and the result of arbitrary and capricious grading should confer promptly with the instructor of the course. If the instructor has left the University, is on approved leave, or cannot be contacted by the student after a reasonable effort, the student should contact the Chair.
- B. If the student and the instructor are unable to arrive at a mutually agreeable solution, the student may file an appeal to the Chair. The appeal must be a written statement that details the basis for the allegation that a grade was the result of arbitrary and capricious grading and presents evidence that supports the allegation.
 - 1. Appeals must be filed within 20 working days after the first day of instruction of the next regular semester.
 - 2. The Chair is responsible for ensuring that the appeal is evaluated in a timely manner and should be sensitive to the potential impact a delay could have on the student. Any delay beyond the last day of the semester in which the appeal was filed must be reported and justified to the next higher administrative level.
- C. Grade appeals may be dismissed administratively. In the event that an appeal is dismissed on administrative grounds, the Chair shall notify the student and the instructor within ten days of the dismissal and include the reason(s) for the dismissal. The appeal may be dismissed administratively if:
 - 1. the student has submitted the same, or substantially the same complaint to any other formal grievance procedure; or,

2. the allegations, even if true, would not constitute arbitrary and capricious grading; or,
 3. the appeal was not timely; or,
 4. the student has not made a good faith effort to confer with the instructor or with the instructor's immediate administrative supervisor as described above.
- D. The Chair shall refer the case to a committee consisting of at least three tenured faculty members at a rank equal or superior to that of the instructor. As appropriate within the context of the academic unit, this committee may be a standing committee, or may be appointed *ad hoc*. The committee should be formulated to provide fair and unbiased consideration of the case, and the charge to the committee should remind them of this responsibility.
- E. The committee shall provide a copy of the student's written statement to the instructor with a request for a prompt written reply. Unless otherwise specified by the committee, the Instructor must provide a written reply within ten working days of the committee's request.
1. If the opportunity for informal resolution of the dispute arises, the committee is authorized and encouraged to mediate such informal resolution.
- F. If a mutually agreeable solution is not achieved, the committee shall convene a factfinding meeting with both the instructor and student. This meeting should be conducted in as non-adversarial a manner as possible. If specific circumstances make a meeting with both instructor and student impractical, the committee may make reasonable accommodations in the interest of a fair and speedy resolution of the case.
1. Neither the student nor the instructor may be accompanied by an advocate or representative.
 2. The meeting is not open to the public.
- G. The committee is responsible for determining whether the case in question constitutes arbitrary and capricious grading, and if so, what potential remedies exist. The deliberations of the committee are to be private and confidential. A finding of arbitrary and capricious grading is made if the majority of the committee finds the allegation to be supported by clear and

convincing evidence. The findings of the committee shall be reported to the Chair.

1. The report should include the findings of the committee, the vote count, and an explanation of the basis for dissenting opinions, if any. It should include a brief summary of the particulars of the case, including any aggravating or mitigating circumstances.
2. If the committee finds that arbitrary and capricious grading has taken place, then the report must include two or more alternative remedies to be implemented by the Chair. These remedies must be chosen to represent the best interests of the student and must include one of the following (but other remedies may also be recommended):
 - a. Cancellation of the student's registration in the class.
 - b. Opening a new section of the class and allowing the student to satisfy its requirements by examination alone, with the exam administered by a disinterested member of the faculty.
 - c. Opening a new section of the class and awarding a grade of "Pass."
3. If the committee fails to specify more than one alternative remedy, then the available remedies should be interpreted to be any of those listed above.
4. The Chair shall notify the student, the instructor, and the Dean in writing of the decision within five days of receiving the committee's report.

H. The Chair (or acting administrator) shall be responsible for implementing a remedy if the committee finds that the case constitutes arbitrary and capricious grading. The Chair should communicate the findings of the committee to the student affected by the decision, and if appropriate should solicit his or her input when considering possible solutions.

1. No administrator may overrule the grade issued by an instructor without a finding by the committee of arbitrary and capricious grading.
2. Only those remedies that were recommended by the committee are available to the Chair. It is acceptable for the Chair and committee to communicate, but the chair is expected to respect the independence of the committee. If the Chair prefers a remedy that was not suggested

by the committee, she or he may request a revised report that includes that remedy. However, the committee is free to decline such

3. Under no circumstances may an instructor be listed as the instructor of record for a grade that they do not condone. If the finding of the Committee, as endorsed by the chair, calls for a new grade to be issued, then provision must be made to enroll the student in a different section of the class.
4. The Chair shall convey the report of the committee, along with a cover letter identifying the remedy selected, to the next higher administrative level.