

RULE XII: RULES OF PROCEDURE FOR APPEALS (NON-ACADEMIC STANDING)

A. Scope of Rules

1. These rules govern procedures in appeals to the faculty from significant decisions of the administration or of faculty committees, which decisions involve a student's rights and obligations.
2. These rules do not extend or limit the jurisdiction of the administrator or faculty committee issuing the decision which is the subject of the appeal.
3. The following decisions by the Dean, Associate Dean or Assistant Dean of Students are final and not appealable to the faculty:
 - a. Appeals from an instructor's grade may be made only to the Dean of UNH Law. The procedure puts the burden on the appellant to show discrimination or unfairness. Discrimination occurs when an instructor awards a different (lower) grade to one student in comparison with others who have done substantially the same work. Unfairness takes place when an instructor awards a grade that, relative to the demonstrated grasp of the subject, is unacceptably low. Unfairness may affect the grade of more than one student.

Proving either discrimination or unfairness is a substantial burden. For the former, the student must introduce into evidence comparable work of other students that received materially higher grades. For the latter, the student must show that the instructor has exceeded professorial latitude in awarding a low grade, even if the instructor has treated others the same way.

The first stage of an appeal is for the appellant to show facts and standards that, if not successfully challenged, prove that the grade should be changed. In the second stage the instructor has the right to challenge the appellant's facts or standards or combination thereof. The entire proceeding is conducted by an exchange of documents unless challenge to personal honesty requires a face-to-face meeting. Only a final course grade may be appealed. Notice of Appeal must be in writing delivered no later than the fifth week of the fall semester in the case of grades from spring or summer courses or the fifth week of the spring semester in the case of grades from fall courses. Within fourteen calendar days of filing a notice of appeal, the student shall file a written memorandum in support of the appeal.

- b. Request by a student to switch sections where different instructors are teaching sections of the same course;
 - c. The number of transfer credits toward the UNH Law degree granted for course work taken at another approved law school.
4. Procedural matters not covered by the rules, including compilation of records, any necessary discovery or scheduling will be decided in the first instance by the faculty Facilitator/Moderator or other person designated by the Dean, subject to the right of the faculty to direct or decide otherwise when the case comes before it.

B. Alternative Dispute Resolution

Nothing in these rules is intended to preclude mediation as a mechanism for attempting to resolve the dispute, provided both parties consent to

the use of this method. Should the use of mediation fail to resolve the dispute, all rights of appeal remain available to the student.

C. Application for Appeal

1. A student desiring to appeal an administration or faculty committee decision should first consult with the Assistant Dean of Students.
2. If the decision complained of falls within the perimeters of subdivision A(1) above, the student must send a copy of the written application for appeal to the Assistant Dean of Students and to each individual member involved in the administrative or faculty committee decision being appealed.
3. The time limits within which the application for appeal must be filed are (a) the time limits designated by the entity who made the original decision, or (b) in the event that entity did not set a time limit for appeal, within the time limits established by the Assistant Dean of Students for this particular case.
4. The written application for appeal must clearly state:
 - a. The identity of the party seeking appeal;
 - b. The individual or committee whose decision is being appealed;
 - c. The specific decision from which the appeal is taken;
 - d. The specific grounds on which the appeal is based;
 - e. The appellant's argument for overturning the original decision.
 - f. Whether appellant wishes to personally appear before the faculty and the reasons therefore.

D. Calendar for Appeal

1. The Assistant Dean of Students will send a copy of the application for appeal and any written record to all faculty members.
2. The individual or committee who made the original decision will be given the opportunity to respond in writing to the appellate argument, although such response is not mandatory. Any written response will also be circulated to the faculty by the Assistant Dean of Students.
3. When the student has requested a hearing, the Assistant Dean of Students shall poll the faculty as to whether the decision should be made (a) solely on the written record by meeting or otherwise, or (b) following a faculty meeting where the appellant personally appears.
4. The Assistant Dean of Students will consult with the Facilitator/Moderator of the faculty to set a meeting date for hearing an appeal where the appellant personally appears. Appeals shall be scheduled to allow at least one (1) week for review of all pleadings and the record unless the person designated in A(4) determines that compelling circumstances dictate that an expedited hearing be held.

E. Hearing the Appeal

1. If the faculty chooses to hear the appeal at a meeting where the appellant personally appears, the student may appear pro se or may be represented by counsel of the student's choosing, whether or not that person is a licensed attorney. The student must bear any cost for counsel.
2. The individual or at least one representative from the committee making the original decision must appear and make oral argument for sustaining its decision.
3. The faculty will, at the outset, establish the time limits for presentations.
4. The faculty will also set any time limits it chooses for discussions and/or questioning of the appellant and the original decision-maker.

F. Decisions

1. The faculty's deliberations on appeals shall be private and confidential.
2. Any faculty member who participated in making the decision from which appeal is taken shall not be eligible to participate in deciding the appeal. Any individual present at the hearing but not eligible to participate in deciding the appeal must leave the room before the decision-making process.
3. Decisions on appeals shall be reached by a majority vote of the faculty present and eligible to participate.
4. The faculty may take the following action on appeals:
 - a. Dismiss the appeal and remand the case with advice on future proceedings;
 - b. Affirm the decision appealed from;
 - c. Modify or reverse the decision appealed from in part or in whole.
5. The action of the faculty on the appeal is final and not subject to further review except by such rehearing as the faculty may allow.