Student Academic Grievance Committee Minutes for January 20, 2010

Members present: Drs. Harris (chair pro tem), Wang, and Allen; Mr. Maymon. Members absent: Mr. Appiah. Others present: Dr. Walton (Dean’s office liaison, acting recording secretary). Others absent: Ms. Kays (recording secretary).

Meeting called to order at 1:05 P.M., January 20, 2010, by Dr. Harris, chair pro tem.

Dr. Harris was elected as chair.

Dr. Walton distributed the following documents to committee members:
- Grievance documents submitted by the student in SAGC Case 2009-001
- Committee membership roster
- Summary of SPHIS Student Academic Grievance Procedure
- SPHIS Student Academic Grievance Committee Charge and Rules

(The latter three documents are also available online.)

Dr. Walton reviewed the committee’s charge and rules, especially the confidentiality rule, and grievance procedure. Dr. Walton stated that, for the grievance case at hand (SAGC Case 2009-001), the committee is required to recommend to the dean on or before January 27, 2010 whether to hold a hearing or not.

The committee adopted the following action by unanimous voice vote:

Resolved, that the Committee recommend to the Dean that there are sufficient grounds to accept SAGC Case 2009-01 for a hearing, based solely on the allegations in the student’s grievance document.

The committee adopted rules governing the hearing procedure (Attachment 1; also available online).

The committee asked Dr. Walton to serve as clerk and be responsible for procedural communications to all involved parties and to be the central point for collection and distribution of documents related to the case. He agreed.

The committee requested Dr. Walton to collect copies of the following documentation for committee consideration:
- The syllabus distributed to students for each of the two courses cited in the grievance
- Any course guidelines distributed to students in either of the two courses cited in the grievance
- The grievant’s program of study
- All communication between Dean’s office and grievants or respondents relevant to the case prior to the committee being given the case.
The committee scheduled its next meeting for Monday, February 1, 2010 at 10:00 A.M in the Dean’s conference room. The committee also asked Dr. Walton to have Ms. Kays try to schedule a hearing for Friday, February 5, 2010, from 9:00 A.M. to 5:00 P.M. He agreed.

The meeting was adjourned at 3:28 P.M.

Respectfully submitted,

Peter L. Walton, M.D.
Acting Recording Secretary
A hearing proceeds as follows:

1. Parliamentary rules
   - While Robert’s Rules of Order, Newly Revised apply during meetings and deliberations of the committee, such rules are suspended during pre-hearings and hearings.
   - Determination of pre-hearing and hearing rules and rulings on such rules is vested solely in the committee and its chair or their designee.
   - These rules may be modified during proceedings with proper notice to both parties and their witnesses.
   - Any part of these rules may be suspended during proceedings with proper notice to both parties and their witnesses.

2. Notification
   - Clerk notifies grievant and respondent(s) (“the parties”) that a hearing of the case has been accepted by the committee and dean and includes a copy of these rules with the notice.
   - Clerk forwards a copy of student’s grievance document with the notice to respondent(s), along with informing each respondent of the option to submit to the clerk a statement in response to the grievance and notice that such statement shall be forwarded to grievant upon receipt.

3. Objections to rules
   - Either party may submit to clerk in writing any objections to parts of these rules, including the basis for the objection, at any time prior to the distribution of documents.
   - Clerk forwards the objection to the committee, which rules on the objection at its sole discretion and at its earliest convenience.

4. Scheduling
   - Clerk schedules a hearing at the earliest date that is acceptable to committee members, grievant, and respondent(s).
   - A hearing may not be held or continued unless each of the following three criteria is met:
     - At least two of the three faculty committee members are present.
     - The grievant is present.
     - The respondent or respondents to the grievance item being heard are present.
   - Clerk notifies committee members and both parties of hearing date, time, and location, along with a schedule for actions prior to the hearing.
5. Witness lists

- Each party may submit in duplicate to the clerk a witness list no later than five working days prior to the hearing, which may be waived by agreement of both parties.
- The grievant is automatically a witness for the grievant. If not included on grievant’s witness list and not called by grievant during the hearing, grievant is called by committee as last witness for the grievant.
- Each respondent is automatically a witness for the respondent(s). If not included on respondent(s)’s witness list and not called by respondent(s) during the hearing, each respondent is called by committee as last witnesses for the respondent(s).
- A party is not required to call any witness on its list to testify during the hearing.
- The committee may compile a list of witnesses it will call to testify if not listed and called by either party. The committee’s witness list is sent to the clerk, who removes the names included in either party’s witness list.
- Clerk forwards a copy of each party’s witness list and the committee’s witness list to the other party no later than four working days prior to the hearing, which may be waived by agreement of both parties.
- Clerk notifies each witness of the following and forward a copy of these rules:
  - Hearing date, time, and location.
  - Hearing may be continued beyond the scheduled date and time.
  - A witness is present only during his or her testimony, the date and time for which may not be known ahead of time.
  - Requirement for confidentiality.
  - Grievance procedure and hearing are not legal proceedings.
  - Witnesses cannot be required to appear or testify.
  - Witnesses are not sworn in or otherwise asked to provide assurance of veracity.
  - Witnesses may refuse to answer any questions put to them.
  - Witnesses may provide documents to be put into evidence.
  - Witnesses may provide testimony or evidence not asked for.
  - Witnesses are subject to questioning by both parties and the committee.
- Each party is responsible for its witnesses’ availability for and attendance at the hearing.
- If a witness is determined by the committee to not be forthcoming, the committee is obliged to disregard all testimony and evidence presented by the witness.
- During the hearing, either party or the committee may call witnesses not on its previously submitted list with proper notice; parties may reasonably request and be granted a continuance of the hearing if such additional witnesses require additional preparation.

6. Evidentiary documents

- Each party may submit in duplicate to the clerk any evidentiary documents related to the case no later than six working days prior to the hearing, which may be waived by agreement of both parties; such documents must be clearly numbered or otherwise identified for reference purposes.
• Clerk forwards a copy of one party’s evidentiary documents to the other party no later than four working days prior to the hearing, which may be waived by agreement of both parties.
• The committee may request documents related to the case from sources other than the two parties and their witnesses; such requests must be done prior to the receipt of any documentation from either party.
• Clerk forwards a copy of the documents that were requested by the committee and were received no later than six working days prior to the hearing, which may be waived by agreement of both parties; such forwarding is done no later than four working days prior to the hearing, which may be waived by agreement of both parties.
• During the hearing and with proper notice, a party may provide new evidentiary documents not previously submitted; the other party may reasonably request and be granted a continuance of the hearing if such new evidentiary documents require additional preparation.

7. Representation and support persons
   • Each party represents himself or herself; no one else may do so.
   • Each party may have one support person with whom he or she may confer during proceedings; such person may only address the committee as a witness and may not question witnesses for either party.

8. Conduct of proceedings during pre-hearing and hearing
   • Committee chair presides. The committee, including the chair, may designate another person to preside at its sole discretion.
   • Committee may meet privately during proceedings at the chair’s discretion and without requiring an adjournment in order to discuss and decide a ruling on an objection or other procedural occurrence during proceedings.
   • Proceedings may be recorded, audio only, at the discretion of the committee for use solely by the committee. Both parties and all witnesses must be notified of this at the start of proceedings.
   • Such recorded audio documentation shall be destroyed once the grievance and any subsequent appeals are finished.
   • No official notes or transcription of the proceedings are made.
   • Persons present at proceedings is limited to the following:
     o Committee members
     o Designated presiding officer is different from chair
     o Grievant
     o Respondent or respondents named in the grievance component being heard
     o The single witness testifying at the time
     o Dean’s office liaison
     o Clerk

9. Pre-hearing
   • Takes place before the formal hearing begins.
SAGC Hearing Rules

- Purpose of pre-hearing is for committee to rule, at its sole discretion, on any objections by one party to any witnesses or evidentiary documents of the other party or to any part of these rules not previously ruled on.
- Neither party may object to witnesses or documents requested by the committee.
- No witnesses may be called during pre-hearing.
- Allowable objections during pre-hearing that may be raised by either party or any committee member:
  - Irrelevant or immaterial: the document is not about the issues in the case
  - Assumes facts not in evidence: the document assumes something as true for which no corroborating document has established
  - Best evidence rule: requires that the original source of evidence is required if available; for example, rather than a document about the contents of a another document not in evidence, the original document should be used
  - Inflammatory: the document is intended to cause prejudice
  - Privilege: document includes information that is privileged, confidential, or otherwise restricted and for which appropriate permission may not have been obtained
  - Lack of foundation: the document lacks evidence as to its authenticity or source

10. Hearing
- Items and sequence (each is optional except as specified):
  a. Opening statement by grievant
  b. Opening statement(s) by respondent(s)
  c. Witnesses called by grievant (must include at least grievant)
     (1) Questioning by grievant (or testimony by grievant)
     (2) Questioning by respondent(s)
     (3) Questioning by committee (may be at any time if for clarification)
  d. Witnesses called by respondent(s) (must include at least each respondent)
     (1) Questioning by respondent(s) (or testimony by respondent(s))
     (2) Questioning by grievant
     (3) Questioning by committee (may be at any time if for clarification)
  e. Witnesses called by committee
     (1) Questioning by committee (may be at any time if for clarification)
     (2) Questioning by grievant
     (3) Questioning by respondent(s)
  f. Closing statement by grievant
  g. Closing statement by respondent(s)
- Allowable objections during hearing that may be raised by either party or any committee member:
  - Irrelevant or immaterial: the question is not about the issues in the case
  - Assumes facts not in evidence: the question assumes something as true for which no evidence has been shown
  - Badgering: questioner is antagonizing the witness in order to provoke a response, either by asking questions without giving the witness an opportunity to answer or by openly mocking the witness
SAGC Hearing Rules

- Best evidence rule: requires that the original source of evidence is required if available; for example, rather than asking a witness about the contents of a document, the actual document should be entered into evidence
- Calls for speculation: the question asks the witness to guess the answer rather than to rely on known facts
- Hearsay: the witness does not know the information personally but heard it from another
- Inflammatory: the question is intended to cause prejudice
- Privilege: question asks for testimony or evidence that is privileged, confidential, or otherwise restricted and for which appropriate permission may not have been obtained
- Non-responsive: the witness did not answer the question; the answer would be disregarded
- Incompetent: the witness is not qualified to answer the question
- Lack of foundation: the evidence lacks testimony as to its authenticity or source

11. Recommendation: the committee meets privately to determine its recommendation to the Dean.

Adopted by Committee 01/20/10.