

II. Mandatory Academic Advising, Academic Disqualification, Probation and Grievances

E. Academic Grievances and Grade Changes

1. Scope

An academic grievance is any formal complaint lodged by a student about an academic circumstance. An academic circumstance is any event relating to a student's education at the School of Law. Such events include grading, testing, quality of instruction, or compliance with the ABA Standards, among others.

2. Grade/Course-Related Grievances

a. This section addresses academic grievances concerning a grade received by a student as part of a law school course or relating to a faculty member's teaching of a particular law school course.

The faculty member teaching a course is responsible for assessing and grading each student's work in the course. The assignment of a grade is ordinarily within the sole academic judgment of the faculty member. This includes a grade based on the instructor's determination that the student engaged in academic misconduct related to the course.

An assigned grade may be challenged only on the basis that the assigned grade is in error or that the assigned grade is arbitrary or capricious.

A grade that is in error is one that is the result of administrative, mathematical, or mechanical error, or is the result of the faculty member's actual failure to assess a substantial part of the student's work.

Determinations of arbitrary or capricious grading are expected to be rare and to require specific supporting evidence. It is within an instructor's discretion to be able to impose any grading penalty for a particular course up to and including a failing grade for the course for any academic misconduct related to that course.

A grade may not be changed as a result of a substantive reevaluation of a student's work, other than based on the faculty member's actual failure to assess a substantial part of the student's work. If a faculty member discovers an error in reviewing one student's exam or other work and discovers that the same error was also made in grading exams or other work of other students, the faculty member must change the grades of all students whose grades were affected by the error.

b. First Stage (Grade/Course-Related Grievances):

A student who questions an assigned grade is encouraged to discuss the grade with the faculty member. The faculty member will explain the application of grading criteria to the student's work and the student.

To make a challenge on a permissible basis, the student must lodge an academic grievance concerning the grade. The academic grievance procedure concerning a student's grade begins with a discussion between the grieving student and the faculty member who has assigned the grade. The student must meet or otherwise communicate with the faculty member within twenty (20) school days after the grade was posted. If the twenty-day period ends on a date outside the School of Law's regular academic year, and the faculty member is not available to discuss the grade with the student, then the student must meet with the faculty member within twenty (20) school days after the first day of classes of the next full semester. If a student's grievance arises from the grade received in a course during the student's final term prior to graduation, the student must lodge his/her grievance within one (1) calendar week of the date the grade was posted.

A faculty member retains discretion, based on academic judgment, to change a graded component of the course (such as a quiz or assignment) prior to recording the student's final grade for the course. Changing a final course grade is a serious matter and a faculty member has only limited discretion to recommend a change to a recorded final course grade, as set forth in the Second Stage.

If the result of the First Stage is a decision by the faculty member to change a grade assigned to a student for a graded component of the course (such as a quiz or assignment) prior to recording the student's final grade for the course, the faculty member may do so without any further process or required approval.

If the result of the First Stage is a recommendation by the faculty member to change the student's recorded final course grade, the faculty member must file a written petition with the Office of Student Life to request the grade change. This petition must include an explanation of the reason supporting the requested change. Such a petition will be approved only upon certification that the original grade was in error as defined in the First Stage. The petition must be approved by both the Assistant Dean for Student Life and the Dean of the School of Law.

c. Second Stage (Grade/Course-Related Grievances):

If the grievance is not resolved to the satisfaction of the student at the First Stage, the student may advance the grievance. At this stage, the student must present the grievance in writing and clearly describe the factual basis for the grievance (that is, why the student believes that the grade is in error or is arbitrary or capricious), the results of the First Stage (that is, the discussion with the faculty member and the faculty member's determination at that stage), and the remedy sought in the Second Stage. The burden is on the student to demonstrate that the grade is in error or is arbitrary or capricious. The student must advance the grievance to the Dean (or, if the Dean is the faculty member against whom the grievance is lodged, to the Associate Dean) within twenty (20) school days of the completion of the First Stage.

As assessment and grading of student work is both the right and responsibility of faculty, the Dean (or Associate Dean) may appoint a committee of faculty to consider the grievance. Such a committee should comprise three tenured or tenure-eligible faculty members. The committee

shall recommend a resolution of the grievance to the Dean (or Associate Dean). The Dean (or Associate Dean) shall render a decision within twenty (20) school days of the receipt of the student's grievance or of the receipt of a committee recommendation.

If a decision is reached to change a grade, and if required by University policy, the petition must be forwarded to the appropriate University authority for final approval. The decision on a faculty member's petition to change a final course grade will be maintained with the Office of Student Life for the duration of the most recent ABA-accreditation period.

3. Other Academic Grievances

This section addresses all academic grievances other than those covered under Section 2 above:

a. First Stage (All Other Academic Grievances):

The academic grievance procedure in the School of Law begins with a discussion between the grieving student and the faculty member, committee, or administrator with whom the student has a grievance. The student must meet with the faculty member, committee, or administrator within twenty (20) school days after the event giving rise to the grievance. If the twenty-day period ends on a date outside the School of Law's regular academic year, then the student must meet with the faculty member, committee, or administrator within twenty (20) school days after the first day of classes of the first full semester following the event giving rise to the grievance.

The Dean (or, if the grievance concerns the Dean, the Associate Dean) may waive this stage for good cause. The student shall make a waiver request in writing and explain the good cause basis for the request. The waiver request must be made within twenty (20) calendar days after the event giving rise to the grievance.

b. Second Stage (All Other Academic Grievances):

If the grievance is not resolved to the satisfaction of the student at the First Stage, the student may advance the grievance. At this stage, the student must present the grievance in writing and clearly describe the factual basis for the grievance, the results of the First Stage (that is, the discussion with the faculty member, committee, or administrator and the resulting determination at that stage), and the remedy sought in the Second Stage. The student must advance the grievance to the Dean (or, if the Dean is the person against whom the grievance is lodged, to the Associate Dean) within twenty (20) school days of the completion of the First Stage.

The Dean (or Associate Dean) will appoint a tenured member of the faculty to consider the grievance. The appointed faculty member shall render a decision within twenty (20) school days of the receipt of the student's grievance. This decision will be made in writing, and the record will be maintained with the Office of Student Life for the duration of the most recent ABA-accreditation period.

c. Third Stage (All Other Academic Grievances):

If the grievance is not resolved to the satisfaction of an involved party (that is, the student who lodged the original grievance or the faculty member, committee, or administrator against whom the grievance was lodged) at the Second Stage, the party may advance the grievance. At this stage, the party must present the grievance in writing and clearly describe the factual basis for the grievance, the results of the First and Second Stages, and the remedy sought in the Third Stage. The party must advance the grievance to the Dean (or, if the Dean is the person against whom the grievance is lodged, to the Associate Dean) within twenty (20) school days of the completion of the Second Stage.

The Dean shall render a decision within twenty (20) school days of the receipt of the grievance. This decision will be made in writing, and the record will be maintained with the Office of Student Life for the duration of the most recent ABA-accreditation period.

d. The Dean shall have the discretion to extend any time periods specified in this policy for good cause.

4. Finality of Decisions

A final decision of the School of Law rendered under this policy is final and may not be appealed under the procedures listed in the University of North Dakota's Code of Student Life or any other University process external to the School of Law. The School of Law is a professional post baccalaureate program approved by the American Bar Association and the Association of American Law Schools. The standards for approval of these accrediting bodies require that decisions of professional academic matters remain with the law school faculty. No further appeal is permitted or appropriate.