

Dr. Anne Reber
Dean of Student Life

MEMORANDUM

DATE: May 7, 2021

TO: Dr. John Stallone
Speaker, Faculty Senate

FROM: Dr. Anne Reber
Chair, Rules and Regulations Committee

SUBJECT: Proposed Revisions to the Texas A&M Student Rules

Attached please find proposed revisions to the Texas A&M University Student Rules as approved by the Rules and Regulations Committee. These changes are for the following section:

Student Rule 59

Approved by the Student Rules and Regulations Committee on May 7, 2021

PROPOSAL

Please see attached rule with tracked changes.

JUSTIFICATION

To bring SR 59.2.2 into line with the Title IX (CREI) office's definition of "protected class," as found here: <https://titleix.tamu.edu/about/glossary/>.

PROPOSED BY:

Name: Karen Butler-Purry
Phone: (979) 845-3631
E-Mail Address: klbutler@tamu.edu
Department: Graduate and Professional School
Department Mail Stop: 1113
Date: April 22, 2021

Approved by the Student Rules and Regulations Committee on May 7, 2021.

Present Rule with additions in **bold red font** and deletions ~~struck~~

59. Graduate Academic Appeals Panel

(Revised: 2016) **(Revised 2021)**

59. Graduate Appeals Panel

The decision as to which procedure to utilize for a grievance filed by a student shall be made solely by the university and shall be based on the fact pattern of each particular case. Each grievance shall be directed to a specific procedure and shall be accorded only one opportunity to be adjudicated unless the appeal body remands for further review.

59.1 Rules. The graduate student's semester grade shall be based upon the grading rule statement in **Student Rule 10.1** and included in the course information distributed at the first class meeting. Determination of absences shall be based on rules on class attendance and excused absences as listed in **Student Rule 7**. Rules regarding separation from the university (i.e., suspension, dismissal, termination) because of scholastic deficiency are listed in **Student Rule 12**.

59.2 Scope. The Graduate Academic Appeals Panel (GAAP) will hear appeals that involve actions against students stemming from: (a) disputes over final course grades, unauthorized absence determination, or evaluation of performance on examinations required by the department, interdisciplinary degree program, faculty, intercollegiate faculty, or the graduate advisory committee; and (b) separation (i.e., suspension, dismissal, or termination) for scholastic deficiency (including failure to make sufficient progress in the student's academic program). Appeals will be heard only when the graduate student alleges that an arbitrary, capricious or prejudiced evaluation has occurred.

59.2.1 Academic Misconduct. Actions stemming from academic misconduct, and any appeal of that action, will be dealt with through the Aggie Honor System Office.

59.2.2 Discrimination. **Student Rule 45** should be used for grievances concerning race, color, religion, sex, national origin, disability, veteran status, or any other legally protected status.

Proposed New Wording:

59.2.2 Discrimination. **Student Rule 45** should be used for grievances concerning ~~race, color, religion, sex, national origin, disability, veteran status, or any other legally protected status.~~ **race, color, sex, gender identity, age, religion, disability, national origin, immigration status, citizenship status, sexual orientation, genetic information, or veteran status.**

59.2.3 Sexual Harassment. Student Rule 47 should be used for grievances concerning sexual harassment when the alleged offender is a current student or an employee of the university

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59.2.4 Disability Accommodations in Academic Programs. Student Rule 46 should be used for grievances concerning disability accommodations in academic programs.

59.2.5 Eligibility. The eligibility to obtain a hearing before the Graduate Academic Appeals Panel means that the graduate student seeking a hearing has complied with all prerequisites as set forth in this rule.

59.3 Definitions. In this rule, the following words have the following definitions and no other:

“Adverse decision” means a decision by a faculty member or administrator that negatively impacts the graduate student and for which the graduate student wishes to pursue a grievance under this rule.

“Arbitrary” means no reasonable factual basis for reaching the conclusion or taking the action.

“Assertion” means a contention or theory about the existence of some state of being. An assertion is established or disproved by information.

“Capricious” means unpredictable and subject to whim.

“Credible” means believable by a reasonable person.

“Information” means material by which an alleged fact is established or disproved. Information establishes or disproves an assertion.

“Faculty” means an individual holding a position in which the primary title includes the word “professor,” “instructor,” “lecturer,” or “librarian” regardless of other rank of appointment qualifiers associated with the title. Appointments with the word “dean” or “provost” with or without a specified faculty rank higher than assistant professor are normally tenured faculty appointments.

“In writing” and “written response” and “written final decision” can be hard copy or electronic media (e.g., email).

“May” means a condition that is not required to be met; it is discretionary. Contrast “shall.”

“Parties” means the graduate student or the Respondent.

“Prejudicial” means irrational attitude of hostility directed against an individual. This does not include hostility on the basis of race, color, national or ethnic origin, religion, sex, disability, age, sexual orientation, or veteran status.

“Preponderance of evidence” means the greater weight of credible evidence submitted in the hearing. For a fact to be established by a preponderance of the evidence the GAP must find the fact is more likely true than not true.

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“Respondent” means the faculty member (or administrator) that made the decision.

“Shall” means a condition that must be met. Contrast “may.”

“Scholastic deficiency” is defined in Student Rule 12.

“Some credible information” means a quantity of information that is believable by a reasonable person.

“Graduate student” means an individual graduate or professional student (not including first professional students – JD, MD, DDS, DVM, PharmD).

59.4 Membership. The pool of faculty and graduate students who sit as a panel on a GAAP shall be appointed by the President or designee. A GAAP shall be comprised of the chair, three (3) graduate faculty members, three (3) graduate faculty alternates, three (3) graduate students, and three (3) graduate student alternates. A quorum consists of the chair, three (3) faculty members, and two (2) graduate students.

59.5 Preliminary Resolution Procedures. To be eligible for a hearing before the GAAP, a graduate student shall first complete the applicable preliminary resolution procedures described below.

59.5.1 Preliminary Resolution Procedure—Disputes Over an Unauthorized Absence Determination or Disputes over Final Grades.

59.5.1.1 Faculty Review. The graduate student shall request in writing a review by the faculty informing the faculty of any concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial. The aim of this review is for: (1) the graduate student to communicate how and why the decision is arbitrary, capricious, or prejudicial; (2) the faculty to respond to the graduate student by communicating how and why the decision is not arbitrary, capricious, or prejudicial; and (3) the faculty to correct errors, if any, in the decision. The faculty shall provide a written response to the graduate student as soon as practicable detailing the grounds for and process used in reaching the decision.

59.5.1.2 Department or Interdisciplinary Degree Program Review. If the graduate student does not receive a satisfactory outcome at the conclusion of the faculty review, or if the faculty is unavailable, the graduate student may request in writing a review by the head (or designee) of the department, or intercollegiate faculty chair (or designee) of the interdisciplinary degree program offering the course, informing the head/chair of any concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial. The department head or intercollegiate faculty chair shall provide a written response to the graduate student and the faculty as soon as practicable detailing the grounds for and process used in reaching the decision.

59.5.1.3 College Review. The graduate student or the faculty may petition the department head or intercollegiate faculty chair’s decision (with respect to findings and/or remedies) to the dean (or de-

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signee) of the college in which the course is offered. The dean shall provide a written response to the graduate student, the faculty, and the department head or intercollegiate faculty chair as soon as practicable detailing the grounds for and process used in reaching the decision; how and why the previous decision should stand or be revoked; and describing changes, if any, in the previous decision.

59.5.2 Preliminary Resolution Procedure—Disputes Over Evaluation of Performance on Examinations.

59.5.2.1 Examination Committee Chair Review. The graduate student shall request in writing a review by the chair or co-chairs of the examination committee (hereafter referred to as chair) or the faculty responsible for administering and grading the exam (hereafter also referred to as chair). The aim of this review is for: (1) the graduate student to communicate how and why the decision is arbitrary, capricious, or prejudicial; (2) the examination committee chair to respond to the graduate student by communicating how and why the decision is not arbitrary, capricious, or prejudicial; and (3) the examination committee chair to correct errors, if any, in the decision. The examination committee chair shall provide a written response to the graduate student as soon as practicable detailing the grounds for and process used in reaching the decision.

59.5.2.2 Department or Interdisciplinary Degree Program Review. If the graduate student does not receive a satisfactory outcome at the conclusion of the Examination Committee Chair Review, or if the examination committee chair is unavailable, the graduate student may request in writing a review by the head (or designee) of the department, or intercollegiate faculty chair (or designee) of the interdisciplinary degree program, administering the evaluation informing the department head or intercollegiate faculty chair of any concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial. Written documentation of all information relevant to the case must be provided in order for the department or interdisciplinary degree program review to be initiated. The department head or intercollegiate faculty chair will meet individually and/or in a group with the graduate student, the examination committee chair, the department/program graduate advisor, and other faculty members relevant to the case to attempt to resolve the petition at the department or interdisciplinary degree program level. The department head or intercollegiate faculty chair can, if appropriate and/or necessary, secure from all parties additional statements and such other information as is deemed helpful and will issue findings and remedies, if any. In doing so, the department head or intercollegiate faculty chair will be guided by the principle that it is up to the graduate student to show that a capricious, arbitrary or prejudiced academic evaluation has occurred. The department head or intercollegiate faculty chair shall provide a written response to the graduate student and the examination committee chair as soon as practicable detailing the grounds for and process used in reaching the decision.

59.5.2.3 College Review. The graduate student or the examination committee chair may petition the department head or intercollegiate faculty chair's decision (with respect to findings and/or remedies) to the dean (or designee) of the college in which the examination was offered. The dean will examine

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the graduate student's or examination committee chair's information and the department head or intercollegiate faculty chair's decision.

The dean shall provide a written response to the graduate student, the examination committee chair, and the department head or interdisciplinary program as soon as practicable detailing the grounds for and process used in reaching the decision; how and why the previous decision should stand or be revoked; and describing changes, if any, in the previous decision.

59.5.2.4 In all instances of petitions, a department head or an intercollegiate faculty chair (or designees), or a dean (or designee), may explore or recommend a variety of solutions consistent with the best interests of the graduate student and university (including voiding of an examining committee's decision), except that a majority decision of the examining committee may not be reversed so as to grant a degree. The examination committee will be consulted throughout all stages of the preliminary resolution procedure about any proposed solutions recommended by any party other than the examination committee.

59.5.3 Preliminary Resolution Procedure—Disputes over Probation, Suspension, Dismissal, or Termination from a Department, Interdisciplinary Degree Program, and/or College for Scholastic Deficiency.

59.5.3.1 Advisory Committee Conference. The graduate student shall schedule and attend a conference (in person, by telephone, or other medium) with the graduate student's advisory committee informing the advisory committee of the graduate student's concerns about the adverse decision. The advisory committee must fully inform the graduate student about the grounds for and process used in reaching the decision. The aim of this conference is for: (1) the graduate student to communicate how and why the decision is arbitrary, capricious, or prejudicial; (2) the advisory committee to respond to the graduate student by communicating how and why the decision is not arbitrary, capricious, or prejudicial; and (3) the advisory committee to correct errors, if any, in the decision. If the decision letter about probation, suspension, dismissal, or termination originated from the department, this step does not apply and the graduate student shall go directly to 59.5.3.2.

59.5.3.2 Department or Interdisciplinary Degree Program Review. If the graduate student does not receive a satisfactory outcome at the conclusion of the advisory committee conference, the graduate student shall request in writing a review by the head (or designee) of the department or intercollegiate faculty chair (or designee) of the interdisciplinary degree program, from which they received a probation, suspension, dismissal, or termination letter. If the probation, suspension, dismissal, or termination letter originated from the department, the graduate student initiates the preliminary resolution procedure here, with the department. The aim of the department or interdisciplinary degree program review is for: (1) the graduate student to communicate how and why the decision is arbitrary, capricious, or prejudicial; (2) the head/chair to communicate how and why the decision is not arbitrary, capricious, or prejudicial; and (3) the head/chair to correct errors, if any, in the decision. The head of the department or chair of the intercollegiate faculty shall review the case and provide a written response to the graduate student as soon as practicable detailing the grounds for and pro-

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cess used in reaching the decision. If the decision letter about probation, suspension, dismissal, or termination originated from the college, this step does not apply and the graduate student shall go directly to 59.5.3.3.

59.5.3.3 College Review. If the graduate student does not receive a satisfactory outcome at the conclusion of the department or interdisciplinary degree program review, the graduate student shall request in writing a review by their dean (or designee) informing the dean of the graduate student's concerns about the adverse decision and communicating how and why the decision is arbitrary, capricious, or prejudicial. If the probation, suspension, dismissal, or termination letter originated from the college, the graduate student initiates the preliminary resolution procedure here, with the college. The dean shall review the case and provide a written response to the graduate student and the department head or intercollegiate faculty chair as soon as practicable detailing the grounds for and process used in reaching the decision; how and why the previous decision should stand or be revoked; and describing changes, if any, in the previous decision.

59.6 Formal Resolution Procedure. If, after completing all required steps in the preliminary resolution procedures section, the graduate student has not received a satisfactory outcome, the graduate student may seek a hearing before the GAAP. To be eligible to receive a hearing before the GAAP, a graduate student must complete and file the appropriate form to request a hearing with the Graduate Academic Appeals Panel. This form can be found on the OGAPS website and should be submitted to the Associate Provost for Graduate and Professional Studies. The graduate student must file the hearing request form no later than ten (10) university business days after receiving the dean's (or designee's) letter referenced above in section **59.5.1.3, 59.5.2.3 of 59.5.3.3 and** as specified in **59.7 Deadlines**. The written request for an appeal hearing should include a statement outlining the graduate student's justification for the appeal. The written request should also include all information and supporting documents that will be introduced at the hearing, including short statements summarizing the testimony that may be presented by speakers.

59.6.1 Graduate Academic Appeals Panel Chair Review. Upon receipt of the form to request a hearing before the Graduate Academic Appeals Panel, the Associate Provost for Graduate and Professional Studies shall deliver a copy of the form and all attachments to the Chair of the GAAP. The GAAP Chair shall review the materials to determine if the graduate student has provided some credible information that, if left uncontested in the GAAP hearing, convinces the GAAP Chair that the GAAP could conclude the evaluation of the graduate student's performance was arbitrary, capricious, or prejudicial.

59.6.1.1 If the graduate student has not provided some credible information that, if left uncontested in the GAAP hearing, convinces the GAAP Chair that the GAAP could conclude the evaluation of the graduate student's performance was arbitrary, capricious, or prejudicial, the GAAP Chair shall notify the graduate student and Associate Provost for Graduate and Professional Studies in writing that the graduate student's request for a GAAP hearing is rejected. The GAAP Chair's decision is final.

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59.6.1.2 If the graduate student has provided some credible information that, if left uncontested in the GAAP hearing, convinces the Chair the GAAP could conclude the evaluation of the graduate student's performance was arbitrary, capricious, or prejudicial, the GAAP Chair shall notify the graduate student and Associate Provost for Graduate and Professional Studies in writing that the graduate student's request for a GAAP hearing is granted and proceed to schedule the hearing.

59.6.2 Pre-Hearing Procedures.

59.6.2.1 If a hearing is granted by the chair of the GAAP, he or she shall forward a copy of the graduate student's request for a hearing before the Graduate Academic Appeals Panel Hearing and all attachments to the respondent and the respondent's Department Head or Intercollegiate Faculty Chair.

59.6.2.2 The Chair of the GAAP shall notify the graduate student and respondent of the time, date, and location of the hearing. The hearing should not be scheduled less than twenty (20) university business days after the hearing request form and attachments are sent to the respondent. The notice of hearing should include a list of potential panel members. At the Chair's sole discretion, if a potential panel member cannot be a fair and impartial panelist, they may be removed.

59.6.2.3 The respondent shall submit to the GAAP Chair and graduate student a list of all speakers to be called by the respondent. The respondent shall also provide to the GAAP Chair and the graduate student copies of all documents to be submitted for consideration by the GAAP. The speaker list and documents shall be submitted no later than ten (10) university business days prior to the hearing. The failure to meet this deadline may result in the speakers and documents being excluded from the hearing.

59.6.2.4 If, after receiving the speaker list and documents of the respondent, the graduate student wants to add additional speakers or documents to those already submitted with the hearing request form, the graduate student shall submit to the GAAP Chair and respondent the additional documents and speaker names not less than five (5) university business days prior to the hearing. The failure to meet this deadline shall result in the speakers and documents being excluded from the hearing unless the respondent agrees to waive the deadline or the GAAP Chair decides the additional documents and speakers will be allowed.

59.6.3 Appeal Hearing.

59.6.3.1 The Chair of the GAAP shall assemble a quorum of panelists to hear the graduate student's appeal. A quorum consists of the GAAP Chair, three (3) graduate faculty members and two (2) graduate students. Prior to the hearing the panel may be briefed about the identity of the parties to the hearing (graduate student and respondent), the general subject matter of the hearing, and the potential speakers. However, the panel may not be given any documentary information or speaker statements prior to the hearing. The panel must make its decision based solely on the information presented by the parties during the hearing. The panel members shall not engage in any independent investigation outside of the hearing nor consider any information obtained outside of the hearing.

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59.6.3.2 The hearing will be conducted in a manner conducive to ascertaining the facts of the case. The graduate student and respondent shall be provided a reasonable opportunity to: (a) be present and hear all arguments and oral statements made to the panel during the hearing; (b) make arguments, present oral statements and written documents, and call speakers to testify—so long as the presentation of material is relevant (as determined by the Chair) to the stated grounds for the appeal; and (c) ask questions of the other party's speakers.

59.6.3.3 Each party may be accompanied at the hearing by an advisor. An advisor may not represent the party, direct questions to the GAAP Chair or panel, participate in the opening or closing statements, engage in argument, or directly question speakers. The advisors sole role is to provide advice and counsel to the advisor's party.

59.6.3.4 At any time, the GAAP Chair or panel may consult with an appropriate university advisor, call or recall speakers, or introduce matters and information it deems relevant to the appeal.

59.6.3.5 The GAAP Chair may establish reasonable time limitations for the oral presentations of the parties.

59.6.3.6 The formal rules of evidence do not apply to GAAP proceedings. The GAAP Chair shall decide the admissibility of information and the schedule of the hearing.

59.6.3.7 A speaker shall not be allowed to attend the hearing before the speaker testifies. Hearings will be closed to the public unless both parties and the GAAP Chair agree to make the hearing open to the public. If the hearing will be open to the public, the graduate student agrees to sign a consent to release student record information as required by FERPA.

59.6.3.8 In hearings involving more than one graduate student, at the sole discretion of the GAAP Chair, a single hearing may be scheduled for all of the graduate students. If any one of the graduate students requests a separate hearing or if the GAAP Chair determined it is in the best interest of the graduate students, separate hearings may be held. When collective hearings are held, individual findings, decisions, and recommendations will be entered by the GAAP.

59.6.3.9 A record of the hearing (e.g., by audiotape, videotape, or court reporter) will be made at the expense of the university. Upon receipt by the GAAP Chair of a written request, the graduate student or respondent may obtain a copy of the record by paying the cost of reproduction or transcription.

59.6.3.10 The Chair of the GAAP may dismiss anyone from the hearing, including parties or advisors, whose conduct is inappropriate or disruptive to the hearing process.

59.6.3.11 The graduate student has the burden of proof to demonstrate by a preponderance of credible information that the evaluation of the graduate student's performance was arbitrary, capricious, or prejudicial.

59.6.4 Appeal Hearing-Order of the Proceedings.

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59.6.4.1 The Chair of the GAAP will begin the hearing with opening remarks. The GAAP Chair will summarize the issues, describe the role of the GAAP, and explain the procedures to be followed. The GAAP Chair will then ask each person in the room to identify themselves for the record.

59.6.4.2 Unless otherwise determined by the GAAP Chair, the order of presentation will be as follows, with the allocation of time for each segment to be determined by the Chair in advance of the hearing:

- (a) Opening statement by the graduate student.
- (b) Opening statement by the respondent.
- (c) Graduate student presents information (documents and speakers), with opportunity for questioning by the respondent and panel members.
- (d) Respondent presents information (documents and speakers), with opportunity for questioning by the graduate student and panel members.
- (e) Recess for closing statement preparation.
- (f) Closing statement by respondent.
- (g) Closing statement by graduate student.
- (h) Chair declares hearing is concluded.

59.6.5 Post-Hearing Procedures.

59.6.5.1 Upon completion of the hearing the GAAP will meet in closed session for deliberations. If the process requires additional time the GAAP may suspend its deliberations and reconvene at a later day and time. A simple majority vote of the panel is required for findings, decisions, and recommendations. No panel member may abstain from voting. The Chair of the GAAP is not a voting member of the GAAP unless for some unexpected reason his/her vote is required to break a tie.

59.6.5.2 The Chair of the GAAP will prepare, and all members of the panel will sign, a written final decision to the graduate student

- (a) Indicating whether the appealed decision is affirmed or modified.
- (b) Articulating the reasonable factual basis upon which the GAAP reached its conclusion.
- (c) Recommendations, if necessary to the individual case being heard, for further actions by university officials.

59.6.5.3 The Chair of the GAAP will provide the respondent, Department Head or Intercollegiate Faculty Chair, Dean of the College offering the course or administering the degree program, Associ-

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ate Provost for Graduate and Professional Studies, and the Provost and Executive Vice President with a copy of the decision.

59.6.6 The decision by the GAAP is the final decision of the university and is not appealable to any university or system person or entity.

59.6.7 In all instances of appeals over evaluation of performance on examinations, the GAAP may explore or recommend a variety of solutions consistent with the best interests of the graduate student and university (including voiding of an examining committee's decision), except that a majority decision of the examining committee may not be reversed so as to grant a degree. The examination committee will be consulted throughout all stages of the formal resolution procedure about any proposed solutions recommended by any party other than the examining committee.

59.6.8 The GAAP Chair may reasonably deviate from the procedures detailed in this rule if the particular facts and circumstances of the matter support the change. A reasonable deviation from the procedures shall not be grounds for overturning the outcome of the hearing process set forth in this rule.

59.7 Deadlines.

59.7.1 Deadlines—Disputes over an Unauthorized Absence Determination. The graduate student must initiate a preliminary resolution procedure within five (5) university business days of the instructor's decision. Graduate students requesting a hearing before the GAAP must file the hearing request form within ten (10) university business days after receiving the dean's (or designee's) written response referenced in 59.5.1 or the last day of regular classes during the academic term in which the adverse decision was made, whichever comes first.

59.7.2 Deadlines—Disputes over Final Grades. The graduate student must initiate a preliminary resolution procedure within ten (10) university business days of the day final grades are posted for the semester or summer session in which the disputed grade was earned. Graduate students requesting a hearing before the GAAP must file the hearing request form within ten (10) university business days after receiving the dean's (or designee's) written response referenced in 59.5.1 or the fifth day of the long semester (fall or spring) immediately following the academic term in which the adverse decision was made, whichever comes first.

59.7.3 Deadlines—Disputes over Evaluation of Performance on Examinations. The student must initiate a preliminary resolution procedure within ten (10) university business days of the day the decision was communicated to the graduate student. Graduate students requesting a hearing before the GAAP must file the hearing request form within ten (10) university business days after receiving the dean's (or designee's) written response referenced in 59.5.2 or the fifth day of the long semester (fall or spring) immediately following the academic term in which the adverse decision was made, whichever comes first.

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59.7.4 Deadlines— Disputes over Probation, Suspension, Dismissal, or Termination from the University for Scholastic Deficiency. To facilitate continuous enrollment should an appeal result in the modification of an adverse decision, the graduate student is urged to initiate the preliminary resolution process immediately after notification of probation, suspension, dismissal, or termination. The graduate student must initiate a preliminary resolution procedure within ten (10) university business days of notification of the dismissal. Graduate students requesting a hearing before the GAAP must file the hearing request form within ten (10) university business days after receiving the dean's (or designee's) written response referenced in 59.5.3 or five (5) university business days before the first day of the long semester (fall or spring) immediately following the academic term in which the adverse decision was made, whichever comes first.

59.8 The GAAP chair may reasonably deviate from the deadlines detailed in section 59.7 if the particular facts and circumstances of the matter support the change. A reasonable deviation from the deadlines shall not be grounds for overturning the outcome of a preliminary or formal resolution procedure set forth in this rule.

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