

15.3 ACADEMIC DUE PROCESS: GRIEVANCES

15.3.1 PURPOSE AND GROUND RULES

This policy provides philosophy and procedures for addressing faculty grievances. Full-time faculty members may grieve actions taken against them by the College or its employees. Grievances are allegations of arbitrary or capricious conduct in the workplace, or violations of the Professional Responsibilities & Standards of Conduct Policy (Policy 15.3.1). A faculty member may not grieve a decision reached under Policy 15.3.2.

In all cases, the aggrieved is expected to confer with the person(s) whom he or she perceives as having acted in an arbitrary or capricious manner and make him or her aware of the problem. If after such conference no mutually acceptable resolution is reached, the aggrieved may choose to initiate the grievance procedure.

Time periods expressed as faculty working days mean those days faculty are working according to the academic calendar or as agreed to by the parties involved. Time limits will be strictly enforced.

15.3.2 INITIATION

The faculty member who feels he or she has grounds to grieve an action is the grievant or claimant and must file copies of a written Statement of Grievance with his or her immediate supervisor (Department Head), Dean, and Vice President for Academic Affairs.

The grievance statement must include specific identification of the claim or grievance, a concise summary of the evidence with supporting documentation, a list of individuals (i.e., respondents) who are asked to respond to the grievance statement, and the claimant's proposed solution.

The Vice President for Academic Affairs will be responsible for submitting copies of the grievance to the respondents within three (3) working days from receipt of the grievance where possible.

15.3.3 PRE-HEARING CONFERENCE

The Vice President Academic Affairs will convene a Pre-Hearing Conference within five (5) working days of submitting the grievance to the respondents. Those invited to attend will be the grievant, his or her Department Head, Dean, and those named as respondents. The purpose of the conference is to discuss the issues and attempt to find a workable and acceptable solution.

At the close of the conference, one of three options will be exercised by the grievant:

- (1) Acceptance of a solution agreeable to all parties. The matter is now ineligible to be grieved further.
- (2) Referral of the matter to the Office of Human Resources. This shall be the option if the faculty member asserts a violation of legal, constitutional, or statutory rights - particularly in the protected categories of race, color, religion, sex, national origin, age, disability, or domestic status. The matter must then be referred, in writing, to the Office of Human Resources by the Vice President for Academic Affairs.
- (3) Decision to appeal for a Grievance Hearing as provided in 15.3.4. The grievant is now responsible to initiate the Hearing Procedure outlined below.

15.3.4 GRIEVANCE HEARING

The formal grievance hearing allows the grievant and the respondents to be heard by a panel of Faculty Senate members who will accept testimony and evidence and will propose a settlement to the College President. The decision of the College President shall be final.

15.3.4.1 Initiation

Within five (5) working days of the pre-hearing conference decision to put the grievance before a formal hearing, the grievant must submit a letter requesting such a hearing to the President of the Faculty Senate with a copy to the Vice President for Academic Affairs. The letter should contain a precise summary of the grievance itself, the efforts which have been made to resolve it, and a request for the Senate to convene a formal hearing.

15.3.4.2 Grievance Hearing Panel

Once the request for a panel hearing has been received by the Senate President, he or she must appoint three (3) Senate members to a panel, designating one as the panel chair. The panel should be named within three (3) working days. The Senate President may or may not be a member of the panel appointed. Effort should be made to compose the panel so as to provide the grievant and the respondent(s) a fair and equitable hearing.

If by reason of his or her involvement as the grievant or respondent, the Senate President cannot fairly appoint the panel, he or she shall designate a Senate member to perform those duties.

15.3.4.3 Gathering of Evidence

Upon appointing the panel, the Senate Panel Chair will request a concise written summary of the grievance and the responses to that grievance from the grievant and

each of the respondents. These must be submitted to the Senate Panel Chair within three (3) working days. The Senate Panel Chair will give copies to the panel within five (5) working days of receiving the written summary of the grievance.

The members, as a panel, may conduct whatever fact-finding they deem necessary and prudent, being sensitive to confidential aspects of the case.

15.3.4.4 The Formal Hearing

15.3.4.4.1 Date

Within ten (10) working days of the time the panel receives the summary (15.3.4.3), the Senate Panel Chair shall convene the panel. The grievance hearing may be continued upon good cause shown by any of the parties or mutual agreement thereto. The grievance hearing panel will grant adjournment to enable either party to investigate evidence to which a valid claim of surprise is made.

15.3.4.4.2 Participants, Witnesses, Advisers

Those in attendance will be: the Vice President for Academic Affairs, the panel, the grievant, the respondents, and such witnesses for both sides as are appropriate. Each party to the grievance has the right to have present any one person as an adviser of his or her choice. Each party shall also have the right to confront and cross-examine witnesses, to present evidence and call witnesses in his or her own behalf, to testify, and to be present with his or her adviser at all meetings and proceedings of the hearing panel except sessions which are closed for deliberation and vote. The advisers are permitted to advise their respective parties but are not permitted to argue the case or interrogate witnesses. Members of the hearing panel may question witnesses and parties to the hearing.

It is the responsibility of the panel chair to maintain order and conduct the hearing

15.3.4.4.3 Opening the Hearing to the Public

Grievance hearings shall be closed to the public unless a party request that they be open, the other party agrees, and the hearing panel determines that an open hearing will not prejudice the interests of any of the parties to the grievance. If the request is made and denied, reasons for such shall be noted in the hearing record.

15.3.4.4.4 Record

The panel chair will be responsible for seeing that a taped record of the hearing is taken. Upon request, a copy of tapes shall be made available to the parties without cost. Original tapes are maintained in the Office of the Vice President for Academic Affairs.

15.3.4.4.5 Burden of Proof

The burden of proof that adequate cause for grievance exists rests with the faculty member grievant and shall be satisfied only by a preponderance of the evidence in the record considered as a whole.

The grievance hearing panel will not be bound by strict rules of evidence and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

15.3.4.4.6 Deliberations

Hearing panel deliberations and voting shall be conducted in closed sessions from which all other persons are excluded. Upon request of any member of the hearing panel, votes shall be taken by secret ballot. A simple majority of members shall be required for recommendations. The chair shall be entitled to vote on all questions.

15.3.4.4.7 Recommendation of the Hearing Panel

In its findings the hearing panel will determine only whether the grievance is valid or not valid, that is, whether or not there is a preponderance of evidence for the grievance, or violations of the Professional Responsibilities & Standards of Conduct Policy (Faculty Policy Number 1).

If the panel finds that the grievance is not valid, the case is closed and may not be grieved again. If the panel finds that the grievance is valid, the panel must make a recommendation to (a) implement a resolution acceptable to the claimant; or (b) refer the case for consideration of possible reprimand and sanction; or (c) consider other mutually agreeable options.

The panel chair shall submit a written report of its findings and recommendations to the Senate President, the Vice President for Academic Affairs, the college President, the claimant and the respondents within five (5) working days of the hearing.

15.3.4.4.8 Presidential Review and Decision

The College President shall review the report and recommendation of the hearing panel and notify the parties to the grievance, the Senate President, and the Vice President for Academic Affairs of his decision within five (5) working days of receipt of the recommendation of the hearing panel. The decision of the President is final.

15.3.4.4.9 This policy does not preclude the right to appeal (within 30 days) the President's decision to a State District Court.