

XXII. Grievance Procedure

A. General Considerations

1. A faculty member may bring a grievance under this policy alleging mistreatment or violation of his or her rights by another College employee related to his or her work as a faculty member. Matters grievable under this policy shall not include decisions regarding reappointment, tenure, promotion, or renewal (matters governed by the procedure in Section 4.XXIII), dismissal or termination (matters governed by the procedures in Sections 4.XVIII and 4.XX, respectively); complaints of unlawful discrimination or harassment (matters referred exclusively to the Human Resources Office), or scientific misconduct (governed by the procedure in the Faculty Handbook).
2. The Faculty Review Committee is charged with reviewing the merits of the grievance and reporting its findings of fact and recommendations, normally within ninety (90) calendar days of receipt of the grievance petition.
3. Time frames and the procedures set forth in this policy are intended by the College to be followed in all instances. Nevertheless, extraordinary circumstances may occur in which variation from what is set out here is necessary. The Dean of the College and the President may grant requests for such variances from the Chair of the Faculty Review Committee or any party to the grievance.

B. Initiating a Grievance

1. A faculty member may initiate a grievance by notifying the Chair of the Faculty Review Committee within one (1) year of the circumstances or events giving rise to the grievance. The faculty member shall submit to the Chair of the Faculty Review Committee, the Dean of the College, and the President a written petition setting forth in detail the nature of the grievance and against whom the grievance is directed. The petition shall contain all factual information the faculty member deems relevant to the grievance, including, but not limited to, the identity of the party or parties against whom the grievance is directed, the identity of all witnesses to the events giving rise to the grievance, dates and descriptions of those events, and any documents relevant to the grievance.
2. Within fourteen (14) calendar days of receipt of the grievance petition, the Faculty Review Committee shall notify the grieving party, the Dean of the College, and the President whether the matter is an appropriate grievance under this policy, and whether it was initiated within the deadline established for grievances under this policy.
3. If the Faculty Review Committee determines that the grievance is untimely or outside the scope of the grievance process, the grieving party will be informed in writing as the reasons for this decision, and no further action by the Faculty Review Committee shall be taken in the matter. If the issues raised in a grievance petition are determined to relate to matters outside the intended scope of this procedure, the Chair shall notify the Dean of the College who will refer the matter to the appropriate College official or entity.
4. If the grieving party believes the Faculty Review Committee has improperly dismissed the grievance for being untimely or outside of the scope of the grievance process, the grieving party may appeal the Committee's decision to the President, who shall make the final determination as to whether a permissible grievance was timely commenced. Such an appeal must be submitted within fourteen (14) calendar days of receipt of notice of the committee's decision to dismiss.

C. Informal Mediation

1. If a timely and appropriate grievance has been initiated under this process, the Faculty Review Committee shall determine whether to recommend an attempt to mediate a resolution between the parties. If the Committee recommends that mediation be attempted, the Chair of the Faculty Review Committee shall communicate this to the grieving party, those against whom the grievance is directed, the Dean of the College, and the President within fourteen (14) calendar days of receipt of the grievance petition or, if there has been an appeal of the Committee's decision to dismiss the grievance, within fourteen (14) calendar days of receipt of the President's decision that a permissible grievance was timely commenced. At the same time, if the Committee recommends that mediation be attempted, the Chair of the Faculty Review Committee shall send a copy of the grievance petition to those against whom the grievance is directed.
2. If the Faculty Review Committee recommends that mediation efforts be initiated, the Chair of the Faculty Review Committee shall request that the Human Resources Office appoint a mediator. The Chair of the Faculty Review Committee shall provide the mediator with a copy of the grievance petition and shall inform the grieving party and those against whom the grievance is directed of the identity of the mediator. Unless a party has objected, mediation efforts shall commence within seven (7) calendar days of the Committee's notification to the parties of its recommendation that mediation be attempted.
3. Mediation is a voluntary and confidential process, and any party may at any time request that mediation efforts stop.
4. The mediator shall have discretion to determine the process for mediating a resolution. Unless the mediator, the grieving party, and those against whom the grievance is directed agree that the period for mediation should be extended, mediation efforts may not continue beyond fourteen (14) calendar days after commencement of the mediation.
5. If the parties are successful in mediating a resolution to the grievance, the mediator shall prepare for the parties' signature a written summary of the concerns raised in the grievance, and the parties' agreed response. Once the parties have signed this document, the mediator shall notify the Faculty Review Committee that the grievance has been resolved and the Committee shall take no further action in the matter. The mediator shall forward copies of the signed document to the parties, the Dean of the College, and the President.
6. If the mediator determines after reviewing the petition and speaking with the parties that mediation would not be fruitful, if attempts to mediate have proven unsuccessful, or if any of the parties requests to stop the mediation process at any time, the grievance petition shall be referred for investigation by the Faculty Review Committee.

D. Investigation by the Faculty Review Committee

1. If mediation attempts are unsuccessful, or if mediation was not recommended, the Faculty Review Committee shall decide whether the allegations merit an investigation. Notification of this decision will be made within seven (7) calendar days after the conclusion of mediation efforts or, if mediation was not recommended, within seven (7) calendar days of the decision not to recommend mediation. This notification will be given to grieving party, the Dean of the College, the President, and, if mediation was involved, those against whom the grievance is directed.
2. If the grieving party believes the Faculty Review Committee has improperly decided that the allegations do not merit an investigation, the grieving party may appeal the

Committee's decision to the President, who shall make the final determination as to whether the Faculty Review Committee shall conduct an investigation. Such an appeal must be submitted within fourteen (14) calendar days of receipt of notice of the committee's decision not to investigate.

3. Once the Committee, or the President, has determined that the allegations merit investigation, the Committee shall send a copy of the grievance petition to those against whom the grievance is directed, notify them that an investigation is being undertaken, and request that these parties submit written responses to the grievance petition within fourteen (14) calendar days. These responses may contain the names of additional witnesses to the events giving rise to the grievance and documents relevant to the grievance.
4. Depending upon the facts and circumstances of each particular case, the Committee may make a determination based upon the parties' statements or it may choose to seek additional evidence and information. Unless specifically granted as per Section 4.XXII.A.3, a maximum of sixty (60) calendar days will be allowed for this process.
5. The Committee may deliberate on its own or meet with whomever it chooses. The Committee may seek to obtain evidence and information from whatever sources and in whatever forms it deems appropriate, including hearings to obtain information from witnesses to the events giving rise to the grievance.
6. Whenever a party to the grievance is present at a meeting or a hearing held by the Committee, he or she shall have the right to have present an advisor of his or her choice from the faculty or the staff of the College.
7. Committee hearings are open only to the Committee, the parties to the grievance, their advisors, and specific persons invited by the Committee. The Committee may question all persons involved in hearings of the Committee. Neither the parties, nor their advisors, if any, may question witnesses or other hearing attendees.
8. After the Committee's work is complete, all records of its activities as well as all written materials submitted to it shall be placed in the custody of the President. The President shall determine the extent, if any, to which the materials from each case may be accessible to the public.

E. Faculty Review Committee Report

1. The Faculty Review Committee shall submit a written report of its findings of fact to the Dean of the College, the President, the grieving party, and the person or persons against whom the grievance was made. The Committee's report shall include a list of the documents the Committee reviewed as evidence, the dates of all meetings and hearings, and the names of any individuals interviewed. The Committee shall include in its report its recommendations for future action, if any, and its reasons for such recommendations.
2. If agreement between the parties to the dispute has been reached, the Committee shall include in their report a summary of the agreement reached.

F. Further Action

1. The Dean of the College shall then decide what, if any, further action shall be taken. The Dean shall provide written notice of his or her decision regarding further action to the Faculty Review Committee, the President, and the parties to the grievance within thirty (30) calendar days of receipt of the Committee's report.

2. Parties to the grievance may appeal the Dean's decision to the President within fourteen (14) calendar days of receipt of notice of that decision. The President shall make the final decision about further action to be taken after engaging in whatever process he or she determines appropriate.

G. Special Circumstances

1. If the Dean of the College is a party to the grievance, the President shall make those decisions and undertake those actions that would otherwise have been the responsibility of the Dean of the College under this procedure. In this case, parties to the grievance may appeal the President's decision (Section 4.XXII.F.2) to the Chair of the Board of Regents within fourteen (14) calendar days of receipt of notice of the President's decision. The Chair of the Board of Regents shall make the final decision after engaging in whatever process he or she determines appropriate.
2. If the President is a party to the grievance, the Chair of the Board of Regents shall make those decisions and undertake those actions that would otherwise have been the responsibility of either the Dean of the College or the President under this procedure. In this case, the Faculty Review Committee shall submit its report only to the grieving party, those against whom the grievance is directed, and the Chair of the Board of Regents.

XXIII. Appeals Procedure

A. Appeal Rights

The purpose of this policy is to provide appeal rights to faculty members for these specific circumstances: to a tenure-track faculty member who is denied reappointment, promotion, or tenure; to a faculty member who is denied promotion; to a faculty member who is denied annual renewal within a multiple-year term appointment.

1. An appeal must be based upon one or more of the grounds for appeal provided herein.
2. The remedy available through this procedure is that some or all of the applicable procedures be reviewed or repeated and the College's decision be reconsidered.

B. Grounds For Appeal of Renewal, Reappointment, Tenure and Promotion Decisions

The grounds upon which appeals may be made are (1) improper consideration and/or (2) inadequate consideration.

1. An appeal may allege that a decision against renewal, reappointment, tenure, or promotion was based significantly on improper consideration because the review process involved at least one of the following: (a) violation of academic freedom, or (b) unlawful discrimination, or (c) violation of applicable College policies on discrimination.
2. An appeal may allege that a decision against renewal, reappointment, tenure, or promotion, was based significantly on inadequate consideration of the evidence and/or of applicable evaluation standards for the relevant decision. The evaluation standards set forth in Section 4.VII of the *Faculty Manual* shall apply. An allegation of "inadequate consideration" refers to concerns whether the department or departments, the Tenure and Promotion Committee, the Dean of the College, and/or the President used applicable standards and appropriate evidence in reaching their decisions.

For the purposes of this policy, the term "adequate consideration" refers essentially to procedural issues having a bearing on the substance of the decision. The standard of

adequate consideration would suggest these kinds of questions: “Was the decision conscientiously arrived at? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation by the department over the import of the evidence in light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a bona fide exercise of professional academic judgment?” (*AAUP Policy Documents and Reports*, 1995 Ed., p. 20). Thus, a finding of inadequate consideration involves a critique of process and not a substitution of the Committee’s own judgment on the merits.

C. Initiating an Appeal

1. To initiate an appeal, the faculty member shall deliver a written petition to the Chair of the Faculty Review Committee, the Office of the President, and the Office of the Dean of the College. The petition must be delivered within sixty (60) calendar days of receipt of official written notice of the decision, or within forty (40) calendar days of receipt of official written notice of the reasons which contributed to the decision (see Section 4.XII), whichever is later. In exceptional cases, the President may grant an extension of the deadline
2. The petition must state the decision being appealed, the grounds for appeal, and a statement of evidence in support of the allegations. The burden of proof rests upon the appellant to establish a *prima facie* case. A *prima facie* case has been established if the appellant’s petition contains statements alleging facts which, if they were uncontradicted, would reasonably allow the Faculty Review Committee to conclude that the College’s decision was based on improper consideration and/or inadequate consideration.

D. Faculty Review Committee Preliminary Response

1. Within fourteen (14) calendar days of their receipt of the petition, the Faculty Review Committee members shall meet to determine whether: the faculty member has alleged a proper basis for appeal; the appeal was commenced within the deadline; and the appellant has established a *prima facie* case. The Committee will establish its own procedures for this preliminary meeting.
2. If the Committee determines that proper grounds for an appeal have not been alleged, or that an appeal has not been timely commenced, or that a *prima facie* case has not been established, it shall so notify the appellant, the President, and the Dean of the College and no further action shall be taken in review of the appeal.
3. If the Committee determines that proper grounds have been alleged, and that the appeal is timely, and that a *prima facie* case has been established, the Committee shall next determine how best to conduct its review of the appeal. Depending upon the facts and circumstances of each particular case, the Committee may request the parties to state their positions in writing, and make a determination based upon these submissions, or the Committee may choose to hold a hearing.

E. Faculty Review Committee Procedures

1. At all hearings of the Committee, the appellant shall have the right to have present an advisor of the appellant’s choosing from among the faculty and staff of the College. The College shall be represented at all hearings of the Committee by the Dean of the College who may select and have present an advisor from the faculty or staff of the College. The role of the advisor is to listen to the proceedings, offer advice to the advisee, take notes, and provide personal support to the advisee. Hearings of the Committee are open only to the appellant, the Dean of the College, the advisors to the appellant and the Dean, and other persons invited by the Committee.

2. The Committee may seek to obtain information from whatever sources it deems necessary. If the appellant or the Dean believes that additional information would be useful from witnesses, or that additional documentary evidence would be helpful, either or both may so inform the Committee, which will determine whether to seek additional testimony or evidence. With the consent of the appellant, the Committee is entitled to access to the appellant's dossier and personnel documents used by individuals or committees in making the original decision.
3. The Committee shall have discretion to determine the manner and order in which it shall take evidence. It may question all persons involved in the hearing. Neither the appellant nor the Dean, nor either of their advisors, if any, may question witnesses without the consent of the Committee. Rules of evidence and other rules and procedures applicable to a court of law need not apply. While protecting the confidentiality of contributions to the dossier, both parties to the dispute have the right to hear testimony of all witnesses and the right to knowledge of all other evidence on which the committee may base its findings.
4. All hearings and deliberations of the Faculty Review Committee shall be conducted confidentially. All participants are bound to keep confidential the evidence and testimony presented or reviewed in the hearings and deliberations. This provision is not intended to limit the ability of the appellant or the College to communicate freely with attorneys, governmental agencies, or as otherwise allowed or required by law.
5. The Faculty Review Committee shall make audio recordings of all hearings.

F. Actions of the Faculty Review Committee

1. The Faculty Review Committee is charged with studying the merits of the appeal and reporting its findings to the President within thirty (30) calendar days of the Committee's preliminary meeting.
2. The Faculty Review Committee shall not substitute its judgment on the merits of the decision for that of appropriate faculty bodies, the Dean of the College, or the President as to the faculty member's suitability for renewal, reappointment, tenure, or promotion, but instead shall limit its findings of fact to the following:
 - a) Whether improper considerations have occurred and likely have affected the decision(s).
 - b) Whether inadequate consideration of the evidence and/or of applicable evaluation standards for the relevant decision have occurred and likely have affected the decision(s).
3. If the Committee finds improper and/or inadequate consideration, the Committee shall recommend to the President that some or all of the applicable procedures be reviewed or repeated and that the decision be reconsidered. The Committee shall prepare a report explaining why the Committee arrived at its findings and identifying which procedures shall be reviewed or repeated and by whom. The President shall provide copies of the Committee's report to the Dean of the College, the appellant, and, as appropriate, individuals or committees involved in the original decision. The findings and contents of the report shall otherwise remain confidential.
4. If the Committee finds improper and/or inadequate consideration on the part of the President alone, the Committee report shall recommend to the President that the President's decision be reconsidered. The report of the Committee shall explain why the Committee arrived at its findings. The President shall provide copies of the Committee's report to the Chair of the Board of Regents, the Dean of the College, the

appellant, and, as appropriate, individuals or committees involved in the original decision. The findings and contents of the report shall otherwise remain confidential.

5. All audio recordings and all written records of the Committee shall be placed in the custody of the President's Office for a period of seven (7) years after the appellant faculty member ceases employment at the College.

G. Actions of the President

1. Within seven (7) calendar days of receipt of the Faculty Review Committee Report, the President will either reverse the decision without further consideration or direct that some or all of the applicable procedures be reviewed or repeated as identified in the Committee's report. The directive for reconsideration shall include specific instructions for individuals or committees and shall state specific deadlines for reconsideration.
2. Within seven (7) calendar days of receipt of all required responses for reconsideration from individuals and committees, the President will either reverse the decision or let stand the original decision and notify the appellant, the Dean of the College, and other individuals or committees involved in the appeal. If the President decides to reverse the original decision, positive recommendations for renewal, reappointment, promotion, and tenure will be forwarded to the Board of Regents for final action. If the President decides to let stand the original decision, this decision of the President cannot be appealed further under this Appeals Procedure.
3. The President's notification to reverse or let stand the original decision should include an explanation for the decision.

H. Action by the Board of Regents

1. After the process outlined in Section 4.XXIII.G has been completed, and if the Committee has found that the President alone made improper and/or inadequate considerations that likely affected the decision, and if the President decides not to reverse the original decision, the appellant may appeal the decision of the President to the Board of Regents by writing to the Chair of the Board.
2. After the Board has completed its review, the Board will either reverse the decision or let stand the original decision and the Board Chair will notify the appellant, the President, the Dean of the College, and other individuals or committees involved in the appeal.
3. The Board Chair's notification to reverse or let stand the original decision should include an explanation for the decision.