

1 April 27, 2005

RPC 0405-6

2  
3 To: St. Olaf Faculty

4 From: RPC

5 Re: Motion to revise the Faculty Manual in relation to faculty grievance procedures (RPC 0405-6)

6  
7 At the May 2005 Faculty Meeting, RPC will move the approval of the following replacement to the  
8 Faculty Manual, section 4.XXII.

9 **Rationale:**

10 This proposal to revise the grievance procedures in Section 4.XXII of the Faculty Manual grows out of  
11 recent experiences of the Faculty Review Committee (FRC). The current Faculty Manual description of  
12 the grievance procedure has several problems:

- 13  
14
- 15 • The amount of time the process or its components will take is not clearly defined.
  - 16 • No provision for mediation is described.
  - 17 • There is no possibility of appeal until the very end of the process.
  - 18 • The current language does not adequately define what procedures the FRC can use in its  
19 investigation.
  - 20 • The current language unnecessarily distributes a grievance petition to associate deans and  
21 department chairs.
  - 22 • Procedures for situations where the President or Dean are parties to the grievance are not defined.

23 The proposed new grievance procedure addresses these problems:

- 24
- 25 • The timeline for the steps of a grievance procedure is carefully delineated, with the expectation  
26 that the entire process should be completed in 90 days (Section A), with well-defined time  
27 expectations all along the way (Sections A-G).
  - 28 • The proposed revision allows for mediation and specifies the form it shall take (Section C).
  - 29 • The proposed revision allows for the possibility of appeal by the grieving party of a decision of  
30 FRC that the grievance was not appropriate or timely (Section B) or that the grievance does not  
31 merit investigation (Section D). It allows for the possibility of appeal by either party of the final  
32 decision of the Dean relating to what further actions should be taken (Section F).
  - 33 • The proposed revision more clearly describes the process of investigation (Section D).
  - 34 • The proposed revision removes department chairs and associate deans from the list of those who  
35 automatically receive copies of the grievance in the case of an investigation. (Section D1).
  - 36 • The new procedure specifies how a grievance made against the Dean or President would be  
37 handled (section G).
- 38

39 In addition, the proposed language of the new procedure is more consistent with the language used to  
40 describe appeals, which are also dealt with by the Faculty Review Committee. (We wish to emphasize,  
41 however, that the procedures here do not relate to *appeals*, only to *grievances*. While the FRC considers  
42 both sorts of petitions, there are other guidelines for appeals, in another section of the Faculty Manual.)  
43

44  
45  
46

46 **Motion:**

47 **4.XXII. Grievance Procedure**

48 **A. General Considerations**

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

65 **B. Initiating a Grievance**

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

91 **C. Informal Mediation**

- 92 1. If a timely and appropriate grievance has been initiated under this process, the Faculty  
93 Review Committee shall determine whether to recommend an attempt to mediate a resolution  
94 between the parties. If the Committee recommends that mediation be attempted, the Chair of  
95 the Faculty Review Committee shall communicate this to the grieving party, those against  
96 whom the grievance is directed, the Dean of the College, and the President within fourteen

97 (14) calendar days of receipt of the grievance petition or, if there has been an appeal of the  
98 Committee's decision to dismiss the grievance, within fourteen (14) calendar days of receipt  
99 of the President's decision that a permissible grievance was timely commenced. At the same  
100 time, if the Committee recommends that mediation be attempted, the Chair of the Faculty  
101 Review Committee shall send a copy of the grievance petition to those against whom the  
102 grievance is directed.

103 2. If the Faculty Review Committee recommends that mediation efforts be initiated, the Chair of  
104 the Faculty Review Committee shall request that the Human Resources Office appoint a  
105 mediator. The Chair of the Faculty Review Committee shall provide the mediator with a  
106 copy of the grievance petition and shall inform the grieving party and those against whom the  
107 grievance is directed of the identity of the mediator. Unless a party has objected, mediation  
108 efforts shall commence within seven (7) calendar days of the Committee's notification to the  
109 parties of its recommendation that mediation be attempted.

110 3. Mediation is a voluntary and confidential process, and any party may at any time request that  
111 mediation efforts stop.

112 4. The mediator shall have discretion to determine the process for mediating a resolution.  
113 Unless the mediator, the grieving party, and those against whom the grievance is directed  
114 agree that the period for mediation should be extended, mediation efforts may not continue  
115 beyond fourteen (14) calendar days after commencement of the mediation.

116 5. If the parties are successful in mediating a resolution to the grievance, the mediator shall  
117 prepare for the parties' signature a written summary of the concerns raised in the grievance,  
118 and the parties' agreed response. Once the parties have signed this document, the mediator  
119 shall notify the Faculty Review Committee that the grievance has been resolved and the  
120 Committee shall take no further action in the matter. The mediator shall forward copies of  
121 the signed document to the parties, the Dean of the College, and the President.

122 6. If the mediator determines after reviewing the petition and speaking with the parties that  
123 mediation would not be fruitful, if attempts to mediate have proven unsuccessful, or if any of  
124 the parties requests to stop the mediation process at any time, the grievance petition shall be  
125 referred for investigation by the Faculty Review Committee.

#### 126 **D. Investigation by the Faculty Review Committee**

127 1. If mediation attempts are unsuccessful, or if mediation was not recommended, the Faculty  
128 Review Committee shall decide whether the allegations merit an investigation. Notification  
129 of this decision will be made within seven (7) calendar days after the conclusion of mediation  
130 efforts or, if mediation was not recommended, within seven (7) calendar days of the decision  
131 not to recommend mediation. This notification will be given to grieving party, the Dean of  
132 the College, the President, and, if mediation was involved, those against whom the grievance  
133 is directed.

134 2. If the grieving party believes the Faculty Review Committee has improperly decided that the  
135 allegations do not merit an investigation, the grieving party may appeal the Committee's  
136 decision to the President, who shall make the final determination as to whether the Faculty  
137 Review Committee shall conduct an investigation. Such an appeal must be submitted within  
138 fourteen (14) calendar days of receipt of notice of the committee's decision not to investigate.

139 3. Once the Committee, or the President, has determined that the allegations merit investigation,  
140 the Committee shall send a copy of the grievance petition to those against whom the  
141 grievance is directed, notify them that an investigation is being undertaken, and request that  
142 these parties submit written responses to the grievance petition within fourteen (14) calendar  
143 days. These responses may contain the names of additional witnesses to the events giving  
144 rise to the grievance and documents relevant to the grievance.

145 4. Depending upon the facts and circumstances of each particular case, the Committee may  
146 make a determination based upon the parties' statements or it may choose to seek additional  
147 evidence and information. Unless specifically granted as per Section 4.XXII.A.3, a  
148 maximum of sixty (60) calendar days will be allowed for this process.

- 149 5. The Committee may deliberate on its own or meet with whomever it chooses. The  
150 Committee may seek to obtain evidence and information from whatever sources and in  
151 whatever forms it deems appropriate, including hearings to obtain information from witnesses  
152 to the events giving rise to the grievance.
- 153 6. Whenever a party to the grievance is present at a meeting or a hearing held by the Committee,  
154 he or she shall have the right to have present an advisor of his or her choice from the faculty  
155 or the staff of the College.
- 156 7. Committee hearings are open only to the Committee, the parties to the grievance, their  
157 advisors, and specific persons invited by the Committee. The Committee may question all  
158 persons involved in hearings of the Committee. Neither the parties, nor their advisors, if any,  
159 may question witnesses or other hearing attendees.
- 160 8. After the Committee's work is complete, all records of its activities as well as all written  
161 materials submitted to it shall be placed in the custody of the President. The President shall  
162 determine the extent, if any, to which the materials from each case may be accessible to the  
163 public.

164 **E. Faculty Review Committee Report**

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

173 **F. Further Action**

- 174 1. The Dean of the College shall then decide what, if any, further action shall be taken. The  
175 Dean shall provide written notice of his or her decision regarding further action to the Faculty  
176 Review Committee, the President, and the parties to the grievance within thirty (30) calendar  
177 days of receipt of the Committee's report.
- 178 2. Parties to the grievance may appeal the Dean's decision to the President within fourteen (14)  
179 calendar days of receipt of notice of that decision. The President shall make the final decision  
180 about further action to be taken after engaging in whatever process he or she determines  
181 appropriate.

182 **G. Special Circumstances**

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