

APPENDIX 8

FACULTY GRIEVANCE RESOLUTION PROCEDURES

I. PURPOSE

These Faculty Grievance Resolution Procedures define an administrative process through which faculty may seek resolution of complaints or grievances. The Procedures are grounded on the following principles:

Fairness of process and neutrality of personnel.

Full notice of what can or will happen and when so that there is predictability and certainty for all concerned.

Expedition without loss of opportunity to be heard and adequate time to prepare.

Opportunity to move forward without having to exhaust unnecessary stages.

Opportunity to resolve matters at the lowest possible level.

Provisions for Confidentiality, Representation, Assistance and a Record of the Grievance.

Ability to pursue rights externally.

Understanding that dispute resolution, in a mutually acceptable manner, is the goal of the grievance process.

II. SCOPE

A. Coverage: These procedures apply to: 1) faculty holding tenure or on a tenure track at the rank of professor, associate professor, or assistant professor and 2) non-tenure track faculty at the rank of instructor or above, including those holding clinical or visiting appointments. All disputes which arise from an employment relationship at UIS are subject to resolution through these Procedures except those excluded below.

B. Exclusions: These procedures do not apply to: 1) those appointed as part-time faculty or those who have adjunct faculty titles, 2) faculty members holding administrative appointments above the rank of dean and 3) faculty members holding university central administrative appointments.

These procedures may not be used for: 1) deciding non-procedural issues relating to faculty reappointment, sabbaticals and awards, promotion and tenure; 2) reviewing any decision by any University or Campus administrator or properly constituted board or committee relating to allocation of resources to support any unit's projects or programs; 3) the adoption of any policy appropriately promulgated by the University or Campus Administration or the

University or Campus governance system; and 4) dismissal before the expiration of the term of appointment of a faculty member who is on definite tenure or of a faculty member who is on indefinite tenure: any such dismissal must be handled under the provisions of Article X of the University Statutes.¹

- C. Allegations of Discrimination: Complaints or grievances of violations of the University's Policy on Non-Discrimination may be brought under these Grievance Resolution Procedures or may be referred to the Campus Affirmative Action Officer for investigation. Any complaint or grievance alleging sexual harassment brought under these Grievance Resolution Procedures must be also reported to the Campus Affirmative Action Officer by the Ombudsperson.

III. DEFINITIONS

Faculty Grievance Hearing Panel: the Faculty Grievance Hearing Panel is a group of faculty members and one hearing officer designated to hear the grievance presented at the formal hearing stage under these Procedures.

Grievance: a Grievance is a written statement setting forth a problem being submitted for action under these Procedures.

Grievant: a Grievant is someone who has filed a formal written request for mediation or other higher level dispute resolution process.

Hearing Officer: a Hearing Officer is an independent third-party neutral, not an employee of the University, who conducts either advisory or formal grievance hearings.²

Mediator: a Mediator is a trained, neutral person whose function is to help disputing parties analyze their respective positions, explore alternative and creative solutions and work out a mutually acceptable resolution.

Ombudsperson: an Ombudsperson is a non-decision making individual whose role is to assure interested parties that the University provides fair treatment when they have grievances or complaints related to their working conditions and to serve as an information resource and repository for these dispute resolution processes.

Remedy: a Remedy is a choice of action which could be used to resolve a given matter.

¹ This subsection reflects the terms of Article X of the University Statutes. "Definite tenure" means having a contract of a specific limited term, e.g., during one's probationary status or a non-tenure track position with an annual appointment; "indefinite tenure" means having an expectation of continued indefinite employment, that is, one's status after having been granted tenured.

² Hearing Officers will be selected from the rosters of the IELRB, ILRB, FMCS or AAA.

Respondent: a Respondent is the individual or representative responding to a preliminary inquiry or written grievance.

IV. GENERAL PROVISIONS

- A. An eligible employee shall be allowed reasonable time away from regular duties consistent with job responsibilities or operational needs to prepare for and attend meetings related to the use of the Faculty Grievance Resolution Procedure.
- B. No person shall use or threaten to use his/her official authority to influence in any manner or to discourage the use of this Procedure, nor shall any reprisal or retaliation result to any employee for use of or participation in the Faculty Grievance Resolution Procedure.
- C. Dispute Resolution material shall not become a part of or be retained in a faculty member's official Personnel File unless submitted to the file by the faculty member him/herself; however, the Administration may maintain other files necessary for effective administration.
- D. The time limits specified herein may be extended by agreement of both parties at any stage of these Procedures.
- E. At any point in any stage of these Procedures, prior to the issuance of a final binding decision, the parties may agree to stop the proceedings in order to negotiate or mediate a resolution. If such negotiation or mediation is unsuccessful, the proceedings continue at the point at which they were stopped.
- F. All results of any and all processes included herein shall be consistent with the University Statutes, General Rules, policies and regulations of the University of Illinois and of the campus of UIS.
- G. The Advisory hearing and the Formal Panel hearing provided for in these Procedures are available only for matters for which a remedy can be granted.
- H. All references to days are to working days unless stated otherwise. Calculations of time under these procedures do not include days when the University is closed or days when the faculty member is not on contract.
- I. All information and documents disclosed under these Procedures will be treated confidentially to the extent allowed by law.
- J. At any stage in these procedures, the faculty member may consult with the Ombudsperson for counsel and advice about the process and procedures.
- K. Federal or state rules of evidence and civil procedure do not apply to these Procedures.

- L. The Provost, the Chair of the Campus Senate and the Chair of the Faculty Advisory Committee shall jointly appoint eighteen (18) tenured faculty members, to serve staggered three (3) year terms as a pool of potential Hearing Panel members.
- M. If the University develops and implements a university-wide Mediation Project, faculty members may elect to use that process.

V. PROBLEM IDENTIFICATION AND REFERRAL OPTIONS:

A faculty member who believes he or she has a problem which could fall within these Procedures shall discuss the matter with the Ombudsperson to: a) clarify the nature of the problem and determine whether it can be addressed through these Procedures, and b) explore the various procedural options available under these Procedures, how they work, the time lines for each, and the possible remedies available under each. The faculty member may elect which dispute resolution options to pursue. Starting at the lowest level for conflict resolution is encouraged but is not required.

VI. INFORMAL RESOLUTION:

The Ombudsperson will use the best efforts of his or her office to assist in the informal resolution of the matter. No one must accept the Ombudsperson's suggestions. The Ombudsperson's determination of whether his or her office will continue informal resolution efforts is final. Through this point, a written statement of the problem is not required.

VII. MEDIATION: In the mediation process, a dispute is viewed as a problem to be solved, not a fight to be won. The process is facilitated by an impartial mediator who facilitates a voluntary resolution satisfactory to the disputing parties. Effective mediation results in a written statement signed by the parties setting forth in positive terms the actions each will take. Parties may only agree to resolutions over which they have authority. If the parties do not reach agreement, the Grievant may pursue other options under this policy.

- A. To initiate mediation, within 60 calendar days from the event on which he/she knew or should have known a problem exists, the Grievant shall submit a written statement to the Ombudsperson setting forth the problem and requesting mediation. The written statement of the problem constitutes the grievance. The Ombudsperson may assist in the drafting of the grievance. The grievance and the request to agree to mediate the grievance shall be forwarded to the other party for a response. The Respondent shall have 10 days from receipt of the copy of the grievance to agree or decline to mediate.

- B. Both parties must agree to mediate a problem. If informal resolution procedures have not been used, the Ombudsperson may suggest, or the parties may agree, to do so before continuing under this section. If the informal resolution procedures are in process, the parties and the Ombudsperson may agree to continue them and to expand the time limits in this section before continuing under this section.
- C. Upon agreement of the parties to mediate, a mediator shall be selected from a pool of mediators. This pool of potential mediators shall be composed of active or retired employees who have an interest in and have been trained as mediators in this process. If the parties believe that two mediators would be better than one, they may so agree. The use of an outside mediator, whose services are paid for by the University, may be granted by the Chancellor in extraordinary circumstances upon recommendation by the Ombudsperson.
- D. The parties have the right to choose a mediator from lists submitted by the Ombudsperson within ten days of receipt by the Ombudsperson of the Respondent's agreement to mediate. If none is chosen by the parties within those ten days, the Ombudsperson can appoint a mediator.
- E. The mediator shall: 1) explain the mediation process to the parties and obtain their agreement to the process, 2) help the parties to understand the best and worst alternatives to a negotiated settlement of their dispute so that they understand the benefits of a mutually negotiated settlement, 3) clarify the areas of disagreement, 4) identify and recognize areas of agreement and accommodation between the parties, 5) reduce to writing any agreements reached by the parties, and 6) obtain the parties' signatures to the written agreement.
- F. If, once the process starts, the parties agree that a different mediator may better serve their needs, they may choose an alternate. This option may be exercised only one time.
- G. If the parties have not concluded mediation or reached agreement at the end of 15 days from the first mediation session, the mediation will be considered to be at impasse and closed. The Grievant may decide to pursue the matter further under these Procedures. Once impasse is reached and mediation ended, the Grievant has 15 days within which to file a request for an Advisory Hearing under Section VIII or a Formal Hearing under Section IX.

VIII. ADVISORY HEARING: The Advisory Hearing is a hearing at which the parties give summary presentations of their best cases before a jointly selected neutral Hearing Officer. The purpose of the Advisory Hearing is to encourage settlement.

- A. To initiate an Advisory Hearing, within 60 calendar days from the event on which he/she knew or should have known a problem exists, or within 15 days of impasse having been reached after Mediation under Section VII, or within 15 days of a request for Mediation under Section VII having been withdrawn, whichever is latest, the Grievant shall submit a written statement to the Ombudsperson requesting an Advisory Hearing and setting forth the problem if not done previously under Section VII. The grievance, if not previously provided under Section VII, shall be forwarded to the other party. Respondent shall have 10 days to respond.
- B. After receipt of the response, the Ombudsperson shall select from the pool of potential Hearing Officers one person to serve as the Hearing Officer. A person who serves as a Hearing Officer at this stage shall be disqualified from serving or appearing in the same matter at the Formal Hearing Panel stage under Section IX.
- C. The hearing shall be held at a time and date mutually agreed to by the parties and the Hearing Officer. All hearings will be conducted in Sangamon County, Illinois, unless the parties agree otherwise. If there is a dispute as to the appropriate date, time or site for the hearing, the parties will submit their requests to the Hearing Office who shall make a final determination. The parties' needs for time for preparation shall be taken into consideration in establishing the hearing date.
- D. The Hearing Officer runs the proceeding in a quasi-judicial manner, including asking questions and looking at documents, except he/she does not render a final decision. This hearing is flexible and informal, but the Hearing Officer has the final authority to decide how to conduct the Advisory Hearing. No record of the hearing shall be made.
- E. After assessing the strengths and weaknesses of each side's case, the Hearing Officer will indicate to the parties what a likely outcome and decision would be if the matter went to a formal hearing before him or her. Within 10 days of the close of the hearing, the Hearing Officer's shall issue an Advisory Recommendation to the parties with a copy submitted to and maintained by the Ombudsperson. The Advisory Recommendation will include only a written summary of the Hearing Officer's recommendation of how the matter should be resolved, including a possible remedy.
- F. After consideration of the Advisory Recommendation, the parties may: 1) agree to accept the advisory recommendation as binding; 2) reach settlement themselves; 3) agree to select a mediator to mediate under these Procedures, or 4) agree to ask the Hearing Officer to mediate under these Procedures.

- G. If the parties do not agree, the Grievant may request a Formal Hearing under Section IX within 15 days of the issuance of the Advisory Recommendation.

IX. FORMAL HEARING BEFORE THE FACULTY GRIEVANCE RESOLUTION PANEL:

A. Establishing the Formal Hearing:

- 1 To initiate a Formal Hearing, within 60 calendar days from the event on which he/she knew or should have known a problem exists, or within 15 days of reaching impasse having been reached in Mediation under Section VII, or within 15 days of an Advisory Recommendation having been issued under Section VIII, whichever is latest, the Grievant shall submit a written statement requesting a Formal Hearing and setting forth the problem if not done under previous stages of these procedures. The grievance, if not previously provided under Section VII or VIII, shall be forwarded to the other party. Respondent shall have 10 days to respond.
- 2 Upon receipt of the response, the Ombudsperson shall check with members of the pool for availability and potential disqualifications. Any member of the pool who believes he/she is not disinterested in the case at hand shall disqualify him/herself. The Ombudsperson shall submit a list of 9 names from the remaining members of the pool to the parties who shall alternately strike names until 5 remain. Parties shall flip a coin to determine who shall strike first. If, for unforeseen reasons, a panel member is appointed but unable to serve at the hearing, the Ombudsperson shall appoint a replacement.
- 3 A Faculty Grievance Hearing Panel consists of five panel members, none of whom shall have a direct interest in the outcome of the matter, selected as above, and a Hearing Officer.
- 4 The hearing is closed to the public, unless an exception has been agreed to by the parties. The hearing shall be held at a time and date mutually agreed to by the parties and the Hearing Officer. All hearings will be conducted in Sangamon County, Illinois, unless the parties agree otherwise. If there is a dispute as to the appropriate date, time or site for the hearing, the parties will submit their requests to the Hearing Office who shall make a final determination.
- 5 All University employees are expected to appear and offer testimony at any University administrative hearing to which they are called as a witness by either party to the dispute, unless the Hearing Officer grants an exception.

B. Conducting the Hearing:

- 1 The authority and responsibility for conducting the hearing is that of the Hearing Officer. The goal is that sufficient information and material be presented by both sides so that the Hearing Panel is fully informed in order to make a fair and just determination as to the outcome and the appropriate remedy. The function of the Hearing Officer is to conduct the hearing in such a way as to ensure that this happens and that during the course of the hearing each party has full opportunity to present evidence, cross examine witnesses and make argument.
- 2 In the event of a panel member's unavailability or disqualification after the hearing has started, the Hearing Officer may continue the hearing as long as at least three panelists remain.
- 3 An audio tape recording shall be made by the Hearing Officer. Either party may ask for a copy of the recording at his or her own expense after the Hearing Panel's decision has been rendered. The Hearing Officer may grant exceptions to this time limitation. Video tape recording is not permitted.
- 4 At least 3 days prior to the formal hearing, the parties shall exchange and provide to the Hearing Officer: a) written statements summarizing the issues in the case, b) lists of proposed witnesses and c) copies of all documents which they intend to present at the hearing.
- 5 The Grievant, the Respondent, and witnesses appearing at the hearing shall give testimony under oath or affirmation and be questioned regarding their knowledge. At the beginning of the hearing, either party may ask that all witnesses be excluded from the hearing room prior to their testimony. The parties have the right to be present in the hearing at all times.
- 6 The Hearing Officer may impose reasonable restrictions on the participants necessary to assure the orderly presentation and resolution of the dispute.
- 7 During the hearing, the panel members may request that the Hearing Officer pose questions and request demonstrations, documents, or other evidence thought to be pertinent.
- 8 Each party may be represented by a person of his or her own choosing who may or may not be an attorney. The University is not responsible for any cost or expense incurred by the employee in consulting or engaging a lawyer or other representative in relation to the use of this Grievance Resolution Procedure. Each party is responsible for his or her own

costs, including legal fees, incurred in connection with the hearing. The fees and expenses of the Hearing Officer shall be borne by the University.

C. Deliberating and Issuing a Decision:

- 1 Subsequent to the Hearing, the Panel will meet with the Hearing Officer and deliberate on the evidence presented at the hearing. The Hearing Officer may assist the panel in its deliberations.
- 2 At the conclusion of the panel's deliberation, the majority of the Panel shall indicate what their decision is. The Panel's findings and conclusions shall be based on the testimony and evidence admitted at the hearing. The Panel's decision shall be recorded in writing drafted by the Hearing Officer. The decision must be signed by a majority of the panel. If there is a minority dissenting opinion that too shall be recorded in writing by the Hearing Officer and signed by the minority. The decision shall include, but is not limited to, the rationale for the decision, indication that it is consistent with the evidence, and the panel's recommendations for action. The Hearing Officer assists the Panel in developing findings and recommendations during deliberation and writes the decision but does not vote on the final decision itself.
- 3 The decision shall be issued within 25 days of the closing of the hearing. The Hearing Officer will submit the Panel's decision to the Chancellor with copies to the Parties and the Ombudsperson.

X. THE CHANCELLOR: At the conclusion of the hearing, the Chancellor will receive the written Panel Decision of findings, conclusions, and recommendations. The decision of the Panel shall be final and binding on the parties unless the Chancellor, for good cause, modifies or rejects the decision, in whole or in part, within 20 days.

- A. The Chancellor's decision to reject or modify the Panel Decision shall be in writing and include a statement of the reasons for rejection or modification, and, if modified, how the remedies shall be changed, if at all, and the rationale for such changes. The Chancellor may direct further investigation and instruct the Panel to conduct a further hearing before rendering his/her decision.

- B. The Chancellor's written decision, which shall be mailed to the faculty member at his or her last known mailing address, also serves as a directive for any action necessary for compliance with the decision.
- C. The decision of the Chancellor is final and concludes the internal Faculty Grievance Procedure.

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