

SENATE ACTION FORM

No. 1143

Subject: Part 12 Faculty Grievance

Reference to Senate Minutes dated: December 4, 2017

Senate Action:

MOTION: The Faculty Welfare Committee recommends amendments to the Faculty Grievance policy to clarify definitions, procedures, and timelines. (see attached- highlighted revisions + clean copy).

VOTE: The motion passed unanimously.

Response requested:

☐ Approval for placement in University Catalog

☐ Approval for placement in University Regulations

☒ Recommendation to Board for placement in Board Policy Manual

☐ None (sent as information item)

☐ Other action requested/comments:



Faculty Senate Chair

December 11, 2017

Date

* * * * *

Administrative review of Senate action (unnecessary for information items):

☐ Reviewed by **VPAA/Provost**. Check ☐ if comments attached

☐ Reviewed by **General Counsel**. Check ☐ if comments attached

Presidential action:

☐ Approve ☐ Reject ☐ Return to Senate for discussion/modification (comments attached)

President/Designated Administrative Officer

Date

Date of Board approval (if applicable): _____

PLEASE RETURN SIGNED ORIGINAL AND ATTACHMENT TO THE FACULTY SENATE OFFICE, BOX 75.

Part 12 Faculty Grievance.

2-3-1201 Faculty Grievance.

This policy sets forth definitions and procedures concerning faculty grievances. All discussions, deliberations, and documents under this policy shall be held in the utmost confidence. **Disputes that involve allegations of discrimination, harassment, or retaliation for alleging discrimination or harassment must first use the Discrimination Complaint Procedures 3-6-125; tenure appeal cases must first follow the procedures for Comprehensive Review 2-3-801(3). [See also the Tenure Appeals Committee (2-3-902(7)).]**

2-3-1201(1) Definitions.

2-3-1201(1)(a) Eligibility.

All faculty members have the right to seek redress of grievances within the University community. **Any grievant has the right to withdraw their formal grievance at any time.**

2-3-1201(1)(b) Grievable Matters.

Grievable matters are those in which one or more faculty members in a specific instance allege(s) that a **misapplication, misinterpretation, or other violation of a** university policy or procedure **has been violated to the detriment adversely affected** his or her/their academic freedom, professional **status reputation**, compensation, and/or the advancement in the profession s/he/they represent or in other ways. In cases of dismissal of tenured faculty, the applicable procedures are those at 1-1-310 and 2-3-1101. In cases of contract non-renewal of all other faculty, the applicable procedures are those outlined in this policy.

2-3-1201(1)(c) Faculty Grievance Committee.

The Faculty Grievance Committee (Grievance Committee) is designated as the hearing authority for all grievances except for those which have their own procedures. A Grievance Committee of twelve (12) full-time faculty members shall be appointed by the Chair of the Faculty Senate and confirmed by the Senate to three-year, staggered terms. The Grievance Committee shall select its own chair and two (2) other committee members who, in addition to the chair, may be asked to chair hearing panels. In the instance of especially **2-3-1201(1)(c)** heavy **caseloads**, the Chair of the Senate may appoint with Senate confirmation additional members to the Grievance Committee.

2-3-1201(1)(d) Working Days.

"Working Days," as used in this Board Policy Manual, means all days other than (a) those designated as "university holiday," "university closed" or "spring break" on the UNC Calendar maintained on the University website, (b) the days following the last day of classes of the fall semester and prior to the first day of classes of the spring semester, (c) the days following the last of classes of the spring semester and prior to the first day of classes of the fall semester of the following academic year, and (d) Saturdays and Sundays.

2-3-1201(2) Preliminary Procedures.

2-3-1201(2)(a) The aggrieved person(s) (herein after called the grievant(s)) shall discuss the alleged violation with the appropriate department chair/school director/**program area coordinator**, academic dean, and the Chief Academic Officer (CAO) in that order **if necessary to resolve the issue. Each of these individuals, when meeting with the aggrieved person(s), should make the aggrieved person aware of the grievance policy.** These discussions must take place within thirty (30) working days of the date **that the grievant(s) knew, should have known, or became aware** of the alleged violation, **or of the harm that results, whichever is later.** Should these discussions fail to resolve the issue, ~~the CAO shall notify the grievant(s) in writing within fifteen (15) working days that the administrative review processes have been exhausted.~~ **the grievant(s) has/have five (5) working days to notify the CAO in writing of the intention to file a formal grievance. Thereafter, if the issue has not been resolved after ten (10) working days, a formal grievance can be filed following the procedures below.**

2-3-1201(2)(b) If the grievant(s) miss(es) any of these deadlines due to reasonable circumstances, the grievant(s) may request in writing an extension to the chair of the Grievance Committee, who shall initiate a vote of the entire committee whether to grant the extension. An extension shall be granted if at least half the committee members voting approve the extension.

2-3-1201(2)(a c) If the grievant(s) then wish(es) to file a grievance, s/he/they have twenty (20) working days after notice of intent to file a grievance has been sent to the CAO, to shall submit it in writing to the chair of the Grievance Committee, the following: within thirty (30) working days of written notification by the CAO. The grievant(s) shall state:

- (I) the exact nature of the grievance, including a list of witnesses, all exhibits and other evidence to be presented at the hearing, together with the name of his or her/their counsel.
- (II) name(s) of the party/parties (herein after called the respondent(s)) alleged to have committed the violation, and
- (III) the relief requested.

2-3-1201(2)(b d) Within ten (10) five (5) working days of receipt of the written notification, the chair of the Grievance Committee shall do the following:

- (I) select five (5) members of the Grievance Committee, including a chair, to form the Hearing Panel (Panel) to hear the grievance.
- (II) convey to the President, the chair of the Senate, the panel members, and the respondent(s) copies of the grievance, including a list of witnesses, all exhibits, and other evidence to be presented at the hearing, together with the name of the grievant's(s') counsel.
- ~~(III) provide the grievant(s) and respondent(s) with the proposed time table and procedure for the hearing.~~

(III) notify the President and the chair of the Senate that a formal grievance has been filed and include the names of the grievant(s) and respondent(s).

From this point, the Panel assumes responsibility for conducting the grievance proceedings.

2-3-1201(2)(e e) Upon receipt of the written notification from the chair of the Grievance Committee, the grievant(s) and respondent(s) shall have ten (10) fifteen (15) working days to submit in duplicate initial arguments a response to the grievant's(s') arguments, a list of witnesses, exhibits and other evidence to be presented at the hearing, together with the name of his or her/their counsel. This information together with all exhibits, evidence, and list of witnesses to the chair of the Panel who shall promptly make it available to grievant(s), respondent(s), and the Panel.

2-3-1201(2)(d f) Once the exchange of evidence is complete, the Panel shall within twenty (20) working days hold a hearing on the case. A full audio recording of the hearing shall be taken.

2-3-1201(2)(g) The Chair of the hearing panel shall provide the grievant(s) and respondent(s) with the proposed time-table and procedure for the hearing after consultation with each party.

2-3-1201(3) The Hearing - General.

The expectation is that the hearing shall be reasonable and fair. The participants in the hearing shall be the Panel, the grievant(s) and his or her/their counsel and witnesses, and the respondent(s) and his or her/their counsel and witnesses. Both the grievant(s) and the respondent(s) can bring legal or other counsel to the hearing, but these counsels may not act or speak on behalf of either party. The hearing shall be closed to all other parties. Witnesses will be present only during their own testimony unless all parties agree otherwise. The goal of the proceedings shall be to insure that the Panel shall be able to hear all relevant positions, examine all materials submitted in the exchange of evidence, and analyze all dimensions of the case

2-3-1201(4) Hearing Procedures.

Members of the Panel may ask questions of either party in the case or any witness called. All parties in the case shall be given the opportunity to ask questions of all witnesses called by either side. **Steps in the The** hearing **itself** will **be proceed** as follows:

2-3-1201(4)(a) The chair of the Panel shall introduce the case by reviewing the steps below for the hearing, clarifying any procedural points regarding evidence to be introduced, stating that the burden of proof lies with the grievant(s), and any matter which should appropriately be resolved before hearing the case. Matters of concern should be raised at this point if any party to the case has a question or complaint. Questions regarding procedure shall be decided by the Panel prior to the beginning of the hearing.

2-3-1201(4)(b) The grievant(s) shall be given the opportunity to make an opening statement outlining his or her/their case.

2-3-1201(4)(c) The respondent(s) shall then be given the opportunity to make an opening statement outlining his or her/their case.

2-3-1201(4)(d) The grievant(s) shall present his or her/their case.

2-3-1201(4)(e) The respondent(s) shall present his or her/their case.

2-3-1201(4)(f) The grievant(s) shall be given the opportunity to make closing arguments.

2-3-1201(4)(g) The respondent(s) shall be given the opportunity to make closing arguments.

2-3-1201(5) Hearing Panel Report.

Within ten (10) working days of completion of the hearing, the chair of the Panel shall file a copy of the report with the President, grievant(s), and respondent(s). The Panel's report shall consist of **three (3) the following** parts: findings of fact, recommended course of action, **and rationale, and all materials submitted by grievant(s) and respondent(s).** ~~If the action already taken is upheld, the report shall contain a specific statement of the rationale or reasons supporting that recommendation.~~ The chair of the Panel shall file a copy of the report and the audio recording of the hearing with the Faculty Senate Office. Within ten (10) working days after receiving this report, the affected persons may submit an appeal in writing to the President. The President shall consider any such appeal before taking final action or making a recommendation for action to the **Board Of Trustees**. The President will render a decision within ~~ninety (90)~~ **forty-five (45)** calendar days. Final disposition of the case by the President shall be reported to the Senate in executive session. S/he shall notify the grievant(s) and respondent(s) of the decision prior to reporting to the Senate. A copy of the President's final report shall be filed in the Faculty Senate Office.

Clean Copy Version: Faculty Welfare Committee Motion: Faculty Senate December 4, 2017

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- (IV) select five (5) members of the Grievance Committee, including a chair, to form the Hearing Panel (Panel) to hear the grievance.
- (V) convey to the panel members and the respondent(s) copies of the grievance, including a list of witnesses, all exhibits, and other evidence to be presented at the hearing, together with the name of the grievant's(s') counsel.

From this point, the Panel assumes responsibility for conducting the grievance proceedings.

2-3-1201(2)(e) Upon receipt of the written notification from the chair of the Grievance Committee, the respondent(s) shall have fifteen (15) working days to submit a response to the grievant's(s') arguments, together with all exhibits, evidence, and list of witnesses to the chair of the Panel who shall promptly make it available to grievant(s) and the Panel.

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