

APPENDIX F-2

REGULATIONS ON FACULTY GRIEVANCE

POLICY AND PROCEDURE

GRIEVANCE COMMITTEE

1. COMPOSITION

The Grievance Committee shall be elected by the Faculty Senate. It shall consist of seven faculty members, with members elected from each of the following full time professorial ranks: assistant professor, associate professor, and full professor. No officer of administration shall serve on the committee. But, if a committee member becomes an officer of administration during a term of office, he/she may serve out that year in office complete any incomplete hearing in which he/she has participated. After rendering a recommendation in that hearing, the new officer of administration is no longer a member of the committee. For these purposes "officer of administration" shall be deemed to include department heads, and division heads.

~~Members of the Nominating Committee of the Faculty Senate recommend persons, as previously recommended through the faculty body for election to the Grievance Committee. All University faculty may recommend candidates or indicate their interest in serving on the Grievance Committee.~~

~~The Committee Chairperson shall be elected annually by the Committee members at the initial meeting of the committee during the Fall Semester. The Grievance Committee shall elect from its membership a Chairperson, a Vice Chairperson and a Secretary. No person may serve as Chairperson for more than four years in succession.~~

2. TERMS OF OFFICE

Committee members shall be elected to serve two-year terms and may serve not more than two consecutive terms.

~~Commencing 1977-†~~The terms of office shall begin on the opening date of the Fall Semester and shall end on the ending date of the Summer Session of each academic year.

3. ELECTIONS

Members of the Nominating Committee of the Faculty Senate recommend committee members, after recommendations from the faculty body for election to the Grievance Committee. All University faculty may recommend candidates or indicate their interest in serving on the Grievance Committee. The Faculty Senate shall select the Grievance Committee members during its first meeting each fall semester.

The Committee Chairperson shall be elected annually by the Committee members at the initial meeting of the committee during the Fall Semester. The Grievance Committee shall elect from its membership a Chairperson, a Vice Chairperson and a Secretary. No person may serve as Chairperson for more than four years in succession.

~~The Faculty Senate, through recommendations of the Faculty Body, shall elect the Grievance Committee members, by ballot, four committee members to serve two year terms. The remaining three committee members shall be elected to serve one year terms of office. Successors shall be elected upon the expiration of these terms and every two years thereafter.~~

~~If a committee member becomes an "officer of administration" during a term of office, he/she may serve out that term of office.~~

4. CONFLICTS OF INTEREST, INCAPACITY OR TEMPORARY VACANCY

A committee member who holds an appointment in the department of a person directly involved in a grievance, who is named as a witness in the petition for redress, who will testify as a witness at the hearing, or whose relationship with a party is that of a family member of the degree of second cousin or closer, resides in the same household, or has a close personal relationship is disqualified and shall not participate as a committee member in the proceedings described in Sections 6 and 7. Either party may raise concerns about a committee member having a conflict as set out below in Section 6.

The committee chairperson shall not serve when any matter in which he/she has a conflict of interest is being considered; the committee vice chairperson shall serve in place of the committee chairperson in these circumstances. The vice chairperson shall serve as chairperson if the chairperson is incapacitated or absent.

If the committee should have less than four qualified members because of conflicts of interest, incapacity or temporary vacancy, elections shall be held promptly in accordance with Sections 1 and 3 above, to fully staff the committee. (If the need arises during the summer terms, the ~~ruling body of the faculty~~ Executive Committee of the Faculty Senate may appoint alternates to fill vacancies on the committee). If a permanent vacancy occurs, elections shall also be held promptly in accordance with Sections 1 and 3 to fill vacancies for the unexpired term.

5. SCOPE AND POWERS

The committee shall be authorized to hear and advise with respect to the adjustment of grievances of members of the faculty. The power of the committee shall be solely to hear representations by the ~~persons grievant and administrators~~ directly involved in a grievance and to advise adjustment by the administration when appropriate. Advice for adjustment in favor of an aggrieved faculty member may be given to the Chancellor only after the department chairperson, dean, or other administrative official most directly empowered to adjust it has been given similar advice and has not acted upon it within a reasonable time.

"Grievances" within the province of the committee's power shall include matters directly related

to a faculty member's employment status and institutional relationships within the institution, including matters related to post-tenure review (prior to discharge, which discharge may be appealed pursuant to the Regulations on Academic Freedom, Tenure and Due Process).

However, no grievance that grows out of or involves matters related to a formal proceeding for non-reappointment, suspension, discharge, or termination of a faculty member, or is within the jurisdiction of another standing committee of the faculty may be considered by the committee. When a decision not to promote is not made as a part of a reappointment decision, the denial of promotion may be heard by the Grievance Committee.

A faculty member whose employment is terminated during the pendency of a grievance proceeding is not entitled to continue to pursue the grievance. If the employment of a faculty member is terminated after the grievance is filed, the Chancellor may, however, in the Chancellor's discretion, determine that it is in the best interest of the University to continue the grievance process.

6. REQUEST FOR REDRESS

If any faculty member feels that he/she has a grievance, he/she may petition the Grievance Committee for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom it is directed. It shall contain any information that the petitioner considers pertinent to his/her case. The faculty member shall deliver a copy of the petition to the respondent administrator by certified mail or by another means that provides proof of delivery. The committee shall decide whether the facts merit a detailed investigation so that submission of a petition shall not result automatically in an investigation or detailed consideration of the petition. A petition properly is dismissed if the grievant fails to allege an injury that would entitle the faculty member to relief. Dismissal is also required if the petition addresses a problem that is not within the committee's jurisdiction.

~~If the decision is made to consider the petition further, the committee or a panel thereof grievant and administrator shall attempt to mediate the matter, using a trained mediator who is not a member of the Grievance Committee (see Appendix F-1 of the Handbook).~~ If the mediation is unsuccessful, a formal hearing shall be held; the person directly involved in the grievance shall be given written notice at least ten (10) business days before the hearing, including the names of the Grievance Committee members. Within 5 (five) business days of receipt of this notice (which may include e-mail), both parties shall either challenge any committee member due to a conflict or accept the committee. If the decision is made not to consider the petition, the faculty member seeking redress shall be notified in writing of this decision within ten (10) business days after the petition is received.

7. THE HEARING

A hearing generally shall not exceed four hours, allowing two (2) hours per side. The Grievance Committee shall have the discretion in extenuating circumstances to grant each side additional time.

~~The hearing shall be conducted informally and in private with only the members of the Grievance Committee. The person directly involved in the grievance may be accompanied by a~~

~~person of his/her choosing. A quorum for the hearing is a simple majority of the total committee membership. If the faculty member requests it, the chairperson shall give him/her a written summary of the hearing. The committee may consider only such evidence as is presented at the hearing and need consider only the evidence offered that it considers fair and reliable. All witnesses may be questioned by the committee members and by the person directly involved in the grievance. Except as herein provided, the conduct of the hearing is under the control of the committee chairperson. The hearing shall be closed to the public. Formal rules of evidence as used in a court shall not apply; relevancy of evidence shall be determined by the Chair of the Grievance Committee. When in doubt, it is generally preferable to admit evidence. Except as herein provided, the conduct of the hearing is under the control of the committee Chair. All proceedings shall be recorded by a court reporter or other reliable method; upon request, a copy thereof shall be furnished to the grievant.~~

~~The grievant and department chair/dean/Provost directly involved in the grievance may be accompanied by a person of his/her choosing, but that person may not speak out during the hearing. A quorum for the hearing is a simple majority of the total committee membership.~~

~~On the day of the hearing, after calling the committee to order, the Chair shall read the grievant's grounds for requesting the hearing.~~

~~The aggrieved faculty member has the burden of proof, and must meet that burden by the preponderance (greater weight) of the evidence.~~

~~The grievant and the department chair/dean/Provost shall have the right to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses and to examine all documents and other adverse demonstrative evidence and make argument. A party may offer all its documents (exhibits) at any time during the presentation of its case. It is expected that one party will not interrupt the other during the presentation of the opposing party's case except for a compelling reason. It is expected that both parties will arrive at the hearing well prepared and organized.~~

~~The grievant goes first in the hearing. He/she may make an opening statement. The grievant may then call a witness to answer questions. When the grievant concludes his/her questioning of the witness, the department chair/dean/Provost may then question the witness (cross-examination). At the conclusion of the cross-examination, the grievant may follow-up with questions limited to the subjects raised by the administrator/designee's questions. The grievant then calls his/her next witness, and the hearing proceeds as before. This process continues until the grievant has called all of his/her witnesses. Committee members may interrupt, at the Chair's discretion, to ask a witness questions. When the grievant concludes offering all of his/her witnesses, the turn shifts to the administrator/designee.~~

~~The department chair/dean/Provost then may make his/her opening statement. He/she may then call a witness. When he/she concludes his/her questioning of the witness, the grievant may then question (cross-examine) the witness. At the conclusion of that cross-examination, the department chair/dean/Provost who called the witness may ask follow-up questions limited to the subjects raised by the questions of grievant. The administrator then calls his/her next witness,~~

and proceeds as before. This process continues until the he/she has called all of his/her witnesses. Committee members may interrupt, at the Chair's discretion, to ask a witness questions.

When the department chair/dean/Provost concludes presenting his/her witnesses, the department chair/dean/Provost may then make a closing argument. Next, the grievant may make his/her closing argument. When that concludes, the hearing is ended.

At the end of the hearing, the Grievance Committee shall consider the matter in ~~executive-closed~~ session. The committee need consider only the evidence offered that it considers fair and reliable. The committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. ~~—The burden is on the aggrieved faculty member to satisfy the committee that his/her contention is true.—~~ If the contention is not confirmed, the persons directly involved in the grievance shall be notified of this decision in writing within ~~ten-fourteen~~ (14) calendar days. If the contention is confirmed, the committee shall act with the authority granted it in Sections 5 and 8 to seek adjustment of the grievance within fourteen (14) calendar days after the hearing concludes.

~~Furthermore, the committee shall keep the aggrieved faculty member apprised of the status of the mediation and shall give him/her and other concerned parties prompt written notice of any decision related to the case.~~

8. REPORT OF RECOMMENDATIONS

In order to prevail in the grievance process, a faculty member must establish that the faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, university policies or regulations, or commonly shared understandings within the academic community about the rights, privileges and responsibilities attending university employment.

The Faculty Grievance Committee shall report its recommendations to the department chairperson or other administrative official most directly empowered to adjust it and to the administrators involved in the hearing, with a copy to the faculty member bringing the grievance. If the chairperson (or other administrative official most directly empowered to adjust it) does not act upon the grievance within a reasonable time and in a way considered appropriate by the Faculty Grievance Committee, the committee may notify the Chancellor of the recommendation it has made to the chairperson (or other administrative official most directly empowered to adjust it) with a copy to the faculty member and the chairperson of the faculty. Within thirty (30) calendar days, the Chancellor shall notify in writing the faculty member and his/her chairperson of the administrative action on the committee's recommendations. The chancellor may, in his discretion, consult with the Grievance Committee before making a decision. If the administrative action differs from the committee's recommendation, the Chancellor shall notify the faculty member, other appropriate administrative officials, and the chairperson of the faculty of the reasons for his/her decision. All communication concerning the committee's

recommendations shall be in writing, shall be treated with the utmost discretion, and shall be held in confidence by all parties involved.

9. FURTHER APPEAL

If the Grievance Committee did not advise that an adjustment in favor of the grievant was appropriate, then the decision of the Chancellor is final and may not be appealed. If the Chancellor declines to accept the committee recommendation that is favorable to the faculty member, the faculty member may appeal the Chancellor's decision to the Board of Trustees by submitting such notice of appeal to the Chancellor, with adequate evidence of delivery, within 10 business days after the grievant's receipt of the Chancellor's decision, all. in the manner prescribed by Section 607 of **The Code** of the Board of Governors of The University of North Carolina.

SECTION 607. THE UNC CODE FOR FACULTY GRIEVANCE COMMITTEE FOR CONSTITUENT INSTITUTIONS.

~~(1) The chancellor of each constituent institution shall provide for the establishment of a faculty grievance committee. The faculty grievance committee shall be elected by the faculty with members elected from each professorial rank. No officer of administration shall serve on the committee. For purposes of this section, "officer of administration" shall be deemed to include department chairs and department heads.~~

~~(2) The committee shall be authorized to hear and advise with respect to the adjustment of grievances of members of the faculty. The power of the committee shall be solely to hear representations by the persons directly involved in a grievance, to facilitate voluntary adjustment by the parties, and to advise adjustment by the administration when appropriate. Advice for adjustment in favor of an aggrieved faculty member may be given to the chancellor only after the dean, department head, or other administrative official most directly empowered to adjust it has been given similar advice and has not acted upon it within a reasonable time.~~

~~(3) "Grievances" within the province of the committee's power shall include matters directly related to a faculty member's employment status and institutional relationships within the constituent institution. However, no grievance that grows out of or involves matters related to a formal proceeding for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.~~

~~(4) If any faculty member has a grievance, the faculty member may petition the faculty grievance committee for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case. The committee shall decide whether the facts merit a detailed investigation so that submission of a petition shall not result automatically in an investigation or detailed consideration of the petition.~~

~~(5) If, before this section is established, the faculty of an institution has adopted a faculty grievance procedure that in its judgment is adequate to its needs, it may retain that procedure in place of the one specified above.~~

~~(6) If neither the relevant administrative official nor the chancellor makes an adjustment that is advised by the faculty grievance committee in favor of the aggrieved faculty member, then the faculty member may appeal to the board of trustees of the constituent institution. The decision of the board of trustees is final.~~

~~In each instance used, the term "days" shall mean consecutive calendar days.~~

For the current version of The Code of the University of North Carolina, see http://www.northcarolina.edu/policy/index.php?pg=dl&id=4436&inline=1&return_url=%2Fpolicy%2Findex.php%3Fpg%3Dvb%26tag%3DChapter%2BVI