

## OFFICIAL

Policy and Procedure Statement 8.08  
Revised: 12/09  
Review Cycle: April 1, EY  
Review Date: April 1, 2010  
Reviewer: Provost

Faculty Grievance Policy  
(10 Paragraphs)

### Pen and Ink Change 12/11/2009, Paragraph 3 c

#### PURPOSE

1. Section 4.42 of Chapter V of the Regents' Rules permits a faculty member to present a grievance, in person, to the President or his/her designee, on an issue related to wages, hours of employment, conditions of work, promotion denial, or the non-renewal or termination of employment.
2. This PPS sets forth procedures for faculty grievances except for the following:
  - a. Harassment and Discrimination Grievances. [UPPS 04.04.42](#) (Prohibition of Sexual Harassment) contains procedures for sexual harassment complaints. [UPPS 04.04.46](#) (Prohibition of Discrimination or Harassment Based on Race, Color, National Origin, Age, Sex, Religion, Disability or Sexual Orientation) contains procedures for complaints of racial harassment and illegal discrimination on the basis of race, color, national origin, age, religion, sex, or disability.
  - b. Procedures Involving Due Process. Procedures for due process in terminating (1) tenured faculty members; (2) non-tenured faculty before the end of their current period of employment; and (3) faculty under special circumstances are contained in Sections 4.5 and 4.6 of Chapter V of the Regents' Rules.

#### DEFINITIONS

3. In this PPS the following terms have the definitions set forth.
  - a. Faculty Member: a person employed full-time by Texas State, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. It does not include department chairs/school directors, or a person who holds faculty rank but spends the majority of his or her time engaged in managerial or supervisory services.
  - b. Ombudsman: a person designated by the President to help faculty members resolve work-related issues. The Ombudsman is neutral, and is not an advocate for either employee or management. The President will appoint the Ombudsman from a list of candidates recommended by a committee composed of three faculty senators (appointed by the Chair of the Faculty Senate) and three chairs/directors or deans (appointed by the Provost). The Ombudsman will receive assigned time and serve a three-year term. The Ombudsman will develop procedures to facilitate the timely

and equitable adjudication of faculty grievances and, via the Faculty Senate, recommend changes in the policy itself.

- c. Faculty Grievance Committee (FGC): the President will appoint a standing committee of three tenured associate or full professors recommended by the Faculty Senate, one department chair recommended by the Council of Chairs and one academic dean recommended by the Provost. The faculty members serve staggered three-year terms; the administrative members serve one-year terms. No more than one member of the committee may be from any one academic college. The President will designate the committee member to serve as chair. The President will appoint a temporary replacement if necessary should a committee member withdraw from participation in any given grievance proceeding because the individual believes that they cannot serve fairly or objectively. However, if the grievance involves termination or non-renewal of a faculty member's employment at Texas State, the President will appoint an administrator (on an ad hoc basis) to serve as the hearing officer, in order to comply with Education Code § 51.960. The Hearing Officer may follow the same procedures listed in this policy for the Grievance Committee. Should more than one grievance be active at the same time, a second FGC or hearing office will be appointed as needed.
- d. Administrator: A member of Texas State's administration. The term includes vice presidents, deans, chairs, and other administrators as determined by the President.

## **GRIEVANCE PROCEDURES**

4. Informal Resolution. Faculty members must make good-faith efforts to resolve issues collegially by discussing their concerns with their chair/director and/or dean. If these discussions do not resolve the issues, faculty may request intervention by the Ombudsman.
  - a. The Ombudsman may investigate and report findings in an effort to achieve equitable settlements. The Ombudsman may arrange, attend, participate in, and keep records of meetings between the faculty member and the chair/director, dean, or other person to explore possible settlement of the issues.
  - b. A collegial settlement can be arranged as either an informal agreement or as a written document specifying the settlement's terms.
5. Mediation. Faculty and administrators are encouraged to take advantage of the available mediation process before filing grievances. Participation in mediation is voluntary, and all parties must agree to participate. The Ombudsman must inform the parties of the availability of mediation and attempt to secure an agreement to mediate. If an agreement is reached through mediation and signed by both parties, the grievance ends and cannot be revisited.
6. Formal Grievance. If the mediation does not result in a finding which is satisfactory to the grievant, the faculty member may file a formal grievance, using a form provided by the Ombudsman (Attachment A).

- a. Time Limit. The faculty member must file the grievance no later than 90 days after the faculty member learns (or in the exercise of reasonable care should have learned) of the action or condition giving rise to the grievance. The following periods of time shall not be included in the calculation of this time limit: (a) all time periods during which an informal resolution of the faculty member's complaint was under consideration by the chair of the department/director of the school, the dean of the college, or any other university administrative official; (b) all time periods during which the parties were engaged in mediation; and (c) all time periods during which the complaint was pending with the Ombudsman.
    1. Although the parties may still resolve the matter informally, they may not use the formal grievance procedure after that time.
    2. The Faculty Grievance Committee may consider only those grievances that are filed in a timely manner. However, during a grievance the Faculty Grievance Committee may hear evidence related to the events that occurred earlier if it is relevant to show motive, intent, plan, knowledge, or absence of mistake or accident.
  - b. Copies. The Ombudsman will forward copies of the grievance to: (1) the Chair of the Faculty Grievance Committee designated by the President ; (2) the responding party; (3) the Provost; and (4) the chair of the Faculty Senate.
  - c. Communication. After a formal grievance is filed, the parties may communicate on the grievance issues only through the Ombudsman or the Chair of the Faculty Grievance Committee until the matter is resolved.
7. Formal Grievance. The President will activate the Faculty Grievance Committee to investigate the grievance. The Faculty Grievance Committee will investigate and submit its findings and recommendations to the President within 40 class days of its activation. The President will take such actions as he or she deems appropriate.
- a. The faculty member may present the grievance individually or through a representative who does not claim the right to strike.
  - b. The Faculty Grievance Committee may not recommend changing action regarding:
    - tenure,
    - non-renewal,
    - termination of employment, or
    - denial of promotion

unless the faculty member establishes, by a preponderance of the evidence, that he or she has been denied a right guaranteed by the Constitution or laws of the United States or the State of Texas .

- c. The Faculty Grievance Committee may not recommend changes in disciplinary actions taken against a faculty member unless the faculty member establishes, by a preponderance of the evidence, that the disciplinary action was an abuse of discretion and authority by the person imposing the disciplinary action.

- d. In all other cases the faculty member must establish his or her position by a preponderance of the evidence.
- e. The Faculty Grievance Committee will investigate all grievances filed by faculty members under this policy.

The Committee will meet with the grievant and his or her representative and will review any documents or other evidence that the grievant presents in support of his or her position. Thereafter, the Committee will also meet with the respondent and with any other witnesses that it chooses to interview. The Chair will contact each witness and ask him/her not to discuss his/her potential testimony with other witnesses or any of the parties involved in the case. The Chair of the Committee will inform the respondent of the nature of the grievance and evidence supporting the grievance in sufficient time for the respondent to prepare a response. The grievant need not be present at these subsequent meetings and interviews. If present, however, the grievant may not question any witness. The Committee may review any documents or other evidence that it deems appropriate to thoroughly investigate the grievance. It may request written statements in lieu of personal appearances from any witness. When the review is completed, the Committee will deliberate in a closed session and reach a finding by majority vote.

Normally it is expected that within ten class days the committee will deliver a report, including the vote on each grievance, with recommendations on each request for relief in the grievance. The Committee will provide the grievant and the respondent with a copy of its report to the President, and the President will inform the grievant, the respondent, and the Committee Chair of his or her action regarding the grievance.

In appropriate cases, the Committee's Chair may recommend to the Provost that any pending action regarding the grievant be delayed until the Committee issues its findings and recommendations to the president. The Provost will determine whether to approve the recommendation.

- 8. Ombudsman's Records. The Ombudsman is not required to maintain records. No party or hearing officer may use the Ombudsman's testimony or any of the Ombudsman's records in a grievance.
- 9. Other Records. The Faculty Senate will maintain in its offices the following records. Other records pertaining to the grievance will be handled in accordance with the official Texas State University-San Marcos records retention policy.

**Record**

**Length of Retention**

|                                                                                 |                                                    |
|---------------------------------------------------------------------------------|----------------------------------------------------|
| The recommendation to the President from the Faculty Grievance Committee        | Three years from the date of submission.           |
| The President's decisions on the grievances.                                    | Three years from their dates.                      |
| Supporting documents submitted by the parties in connection with the grievance. | Two years from the date of the grievance hearing.  |
| The original audio recording of the grievance hearing.                          | Two years from the date of the grievance hearing.  |
| Any other documents associated with the grievance.                              | Six months from the date of the grievance hearing. |

### CERTIFICATION STATEMENT

10. This PPS has been approved by the reviewer listed below and represents Texas State's Division of Academic Affairs policy and procedure from the date of this document until superseded.

Review Cycle:

Review Date:

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Reviewer:

Date:

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Approved:

Date:

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Perry Moore

Provost and Vice President for  
Academic Affairs