

UNIVERSITY OF NEW ORLEANS FACULTY GRIEVANCE PROCEDURE

1. Introduction: General Principles

1.1 It is fundamental to collegiality that members of the faculty be treated fairly. The Faculty Grievance Procedure is designed to ensure the observance of academic due process in personnel matters. Academic due process is a clear, orderly, fair system of procedures designed to produce the best possible decisions. While the judgment of colleagues within the discipline and of administrators (including department chairs) regarding the quality of professional performance may not be the subject of a grievance, a grievance may allege that a decision was not made in accordance with the letter and intent of established and accepted procedures and criteria.

1.2 A grievance consists of an allegation by a faculty member¹ of unfair treatment in decisions made by a chair or other administrator that adversely affect the faculty member's academic standing or conditions of employment.² Grievances may result from, but are not limited to, decisions affecting tenure, promotion, salary adjustments, and teaching responsibilities. If a faculty member can demonstrate that he or she has been treated unfairly because procedures were absent or not followed in such a decision, he or she has the right to resort to this Faculty Grievance Procedure.

1.3 The fundamental principle underlying this process is that it should be collegial. Therefore, whenever possible and as time allows, faculty are encouraged to discuss issues with department chairs, deans, and other university administrators prior to filing a grievance. Conversely, department chairs, deans, and other university administrators are expected to follow clear, orderly, and fair procedures and to discuss these processes with the faculty.

1.4 A Grievance Committee is advisory to the President and reports only to him/her. In matters of academic judgment, the Committee may not substitute its judgment for that of administrators or faculty committees. In grievances involving decisions on promotion, tenure, merit reward, etc., if the Committee finds that the decision being contested was not made according to the letter and intent of established and accepted criteria and procedures, then the Committee may recommend to the President that the decision be remanded and that the decision process begin anew with safeguards to ensure that appropriate procedures are in place and followed.

1.5 The filing of a grievance in no way suspends the regular administrative procedures of the University.³ Under no circumstances will a faculty member be penalized for filing a grievance _ whether upheld or denied. However, if, prior to seeking resolution of a dispute by filing a grievance or while the grievance procedure is in progress, a faculty member seeks resolution of this matter through any agency outside the University, whether administrative or judicial, the University will have no obligation to entertain or proceed further with the matter pursuant to this grievance policy, except as required by law or judicial order.

2. Initiation of the Grievance

¹ A "faculty member" for purposes of this Grievance Procedure is as defined in the Rules of the University of Louisiana System Board of Supervisors.

² This procedure is written in terms of a complaint against a departmental decision. A complaint against a dean or vice President shall follow the steps outlined here: i.e., starting at the appropriate level with a letter of grievance, then filing the Form of Grievance with the Grievance Review Committee. Administrative review of the grievance will be undertaken at the appropriate levels.

³ Grievances may be initiated only by persons currently in the employ of the University. If a grievant leaves the University, the grievance may proceed under this policy only if the grievance is initiated within the 30-day period specified in section 2.1 and the proposed resolution is an action which the University can practically and legally carry out.

2.1 Within 30 calendar days during an academic term⁴ after official notification to the faculty member of the action which the faculty member is challenging, the grievant should initiate the grievance process by submitting a letter to the person against whom the grievance is being made. This letter should request a resolution of the matter and include a statement of the exact nature of the grievance and the proposed resolution, and all available supporting documentation.⁵ A copy of this letter should also be sent to the administrator who is the immediate supervisor of the person being grieved against. (In promotion and tenure matters, the period begins with the notification to the faculty member by the chair after receipt of or confirmation of the adverse decision by the President.) The date of this letter shall constitute the initiation date of the grievance procedure. The party being grieved against will within 5 working days provide a written response to the grievant with a copy to the immediate supervisor. The respondent may either (1) agree to the resolution proposed by the grievant, (2) suggest an alternative resolution, or (3) deny the proposed resolution. If the grievant's proposed resolution is denied, the response should include the specific reasons for the denial and copies of all available supporting documentation.

2.2 If no response is received by the faculty member within the time period, or if a resolution cannot be agreed upon, the grievant may choose to take the grievance to the Grievance Review Committee (GRC), in the latter case within 10 working days of receiving the written response from the person against whom the grievance is made.⁶

3. Submission to the Grievance Review Committee.

3.1 If the faculty member wishes to continue the grievance process, he or she may file the grievance with the Grievance Review Committee (see Appendix 1: Composition of the Grievance Review Committee). The Form of Grievance (attached to this policy) along with all written communications that were part of the attempt to resolve the matter to this point are to be sent to the Chair of the GRC, with a copy to the person against whom the grievance is being filed.

3.2 Within 10 working days of receiving the materials of the grievance, the GRC will review them and determine if the criteria for a grievance as specified in this policy are met (see above, Section 1, Introduction--General Principles). The GRC may contact any of the parties involved in the matter to this point to seek additional information or to verify the documentation it has received from the grievant. The purpose of the GRC at this stage is to facilitate the process of the grievance by assisting the faculty member in clarifying the issues at hand and formulating the Form of Grievance. The GRC review shall be based on and limited to the statement of grievance and the proposed resolution as stated, and it will make no judgment as to the merit of the grievance per se. If the GRC is not satisfied that the statement of the grievance meets the criteria of this policy, it may return the Form of Grievance and accompanying materials to the faculty member with suggestions for correction or clarification and the option of resubmission. The grievant will have 7 calendar days to resubmit the grievance to the GRC.

3.3 The faculty member may submit the statement of his/her grievance to the GRC a maximum of three times. The GRC will send a copy of the revised Form of Grievance to the person against whom the grievance is being filed for review and/or comment. Any written comments then become part of the record of the grievance. If upon

⁴ The academic term, defined in the University Calendar printed in the University Catalogue, normally begins on the date academic appointments become effective and ends on the day after Commencement. The Grievance Review Committee has the authority to extend any of the time limits specified in this section of the Policy. "Working days" as used in this Policy are defined as class or examination days, excluding Saturday and Sunday.

⁵ Whenever documents are submitted in reference to a grievance under this policy, they are to be arranged chronologically, numbered, and accompanied by a cover index sheet in order to ensure that all documentation remains together.

⁶ Administrative resolution of any grievance is preferred. Therefore, the immediate supervisor or others in the administration, upon receipt of the letters from the parties or at any other stage of the grievance process, are encouraged to seek an agreement that can resolve the grievance.

the third review the GRC determines that the grievance does not meet the criteria for grievances under this policy, the Chair of the GRC will communicate the decision in writing to the faculty member, the person against whom the grievance was made, his/her immediate supervisor, and the Provost. No further action will be taken by the GRC and this grievance procedure will no longer be available to the faculty member for this particular matter.

3.4 If a faculty member has two or more grievances pending against the same decision at any time, the grievances may be consolidated at any stage by the Grievance Review Committee. In addition, two or more faculty members who allege that they have been treated unfairly in the same manner may petition the GRC to have their individual grievances heard by a single committee. This decision shall be made on the basis of the written records of the individual grievances. A grievance committee hearing more than one grievance may make separate recommendations regarding each grievance.

4. Administrative Resolution of the Grievance

4.1 If the GRC decides that the grievance meets the criteria of this policy, it will notify the parties to the grievance, the grievant's dean, and the Office of Academic Affairs. The record of the documentation will be provided to the grievant's dean, who will have 5 working days to attempt to resolve the grievance. To conduct a fair and complete review, the dean must have full and complete documentation from each party to the grievance before issuing a ruling on the merit of the grievance. If the dean is able to resolve the grievance he/she will notify all parties and the chair of the GRC of his/her disposition of the grievance.

4.2 If the dean is not able to resolve the grievance after a careful review, he/she shall forward the grievance materials to the Office of the Provost. The dean may include a written ruling on the matter. The Office of the Provost will have 10 working days upon receipt of the grievance to attempt to resolve it. In attempting to resolve the grievance, he/she may request additional documentation before issuing a ruling on the merit of the grievance. If the Provost is able to resolve the grievance he/she (or a designee) shall notify all parties and the chair of the GRC of the disposition of the appeal.

4.3 If the Provost is unable to resolve the grievance, then the grievance materials along with the rulings of the dean and the Provost will be returned to the chair of the GRC. The chair of the GRC will immediately notify the faculty member that he/she has the option of having the President rule on the grievance or having the grievance sent to a faculty Grievance Committee.

5. Action by the President in Lieu of Action by a Grievance Committee

If the faculty member chooses to have the President act on the matter, the GRC will provide the President with the entire collection of materials assembled during its review. The President shall review the materials and within 30 calendar days make a decision on the contested matter. The President shall send copies of his or her decision to all parties.

6. The Grievance Committee.

6.1 If the grievant chooses to have the grievance heard by a Grievance Committee, the chair of the GRC will supervise the selection process for the Grievance Committee according to the procedure detailed in Appendix 2, Selection of the Grievance Committee. Once the membership of the Grievance Committee has been established and empanelled by the President, the GRC will select one of its voting members to serve as liaison to the Grievance Committee. He/she shall convene the first meeting of the Grievance Committee, instruct the committee to elect its chair and secretary, and provide the Committee with all of its materials relative to the grievance. The Committee chair's responsibilities include, but are not limited to: scheduling the meetings of the committee in a timely manner for all participants; issuing requests to persons to testify or present documents; and submitting the committee's final report to the President. The GRC liaison will serve as facilitator of the process of the grievance, will report once a month to the Chair of GRC on the progress of the hearings, but will have no vote in the Grievance Committee.

6.2 The Committee shall proceed according to Appendix 3, Instructions to Grievance Committees. Upon completion of its investigation, the Committee will report its findings and recommendations, together with its summary of the testimony, in writing to the President. Individual members may make minority or concurring reports as appropriate. The Committee may, at the President's request, discuss its findings and recommendations informally with the President after it has made its formal report.

7. Action by the President on the Recommendations of the Grievance Committee

The President will make his/her ruling known to the parties of the grievance within 10 calendar days of receipt of the Committee's report. Although the President may choose not to implement the recommendations of the Committee, the fact that the recommendations represent the result of extensive and careful investigation by a duly constituted faculty committee warrants his/her full consideration. The recommendations of the Grievance Committee, a summary of its findings and of the testimony, and the President's ruling are to be communicated in writing to the parties of the grievance and to the parties who reviewed the matter in the administrative review process. There will be a final official meeting of the Grievance Committee at which the President will discuss his or her ruling.

8. Appeal to the University of Louisiana System Board of Supervisors

From the University of Louisiana Board Rules, Chapter III, Section XIV

- A. **Institutional Grievance Procedures.** Each Institution shall develop and promulgate an internal grievance procedure for employees (classified and unclassified). This procedure shall be approved by the Board. An employee must exhaust all administrative procedures at the institutional level before an appeal can be made to the Board.
- B. **Board Review.** If an employee makes an appeal to the Board, the administrative proceedings from the institution will be reviewed. The purpose of this review is to determine if an appropriate process has been provided to the grievant, not to review the particular outcomes. Following this review, the grievant will be notified of the Board's decision.
- C. **Granting of Hearing.** The Board may grant the grievant a hearing and provide a fixed time for each party to present his/her case and all arguments shall be confined to the record of the administrative proceedings from the institution. However, after the review of the administrative proceedings from the institution, the Board may allow additional evidence to be presented. The Board will notify both parties of the type of additional evidence it seeks and the procedure to be used in its presentation.
- D. **Board Policy on Grievance.** The Board recognizes the necessity and desirability of providing employees a method and forum in which to resolve, in an orderly fashion, problems in the work place. However, by the adoption of this policy, it is not the intention of the Board to confer upon college and university employees any additional rights of substantive or procedural due process not mandated by law.

May 7, 1998. Revision approved by the Faculty Senate 4/30/2012.

Appendix 1. Composition of the Grievance Review Committee

App 1.1 The Grievance Review Committee (GRC) is composed of one voting member and one alternate elected by the faculty of each of the colleges and the Library from among its tenured faculty. Elections shall be held in the units no later than April 20 each year and shall be conducted according to the method used for choosing the unit's Senate Executive Committee members. Members and alternates from each college shall serve concurrent terms of three years. If at any time the voting member from a unit is unable to serve by reason of official leave or short-term absence, the alternate shall take his/her place. Alternates will not attend meetings of the GRC if they are not replacing voting members. The terms of GRC members shall be staggered.⁷

App 1.2 The voting members of the GRC shall elect a Chair from among the members of the GRC who have at least one year of experience. The term of the Chair shall be one year and he/she may be re-elected. A Vice Chair shall then be chosen from among the remaining voting members of the GRC. If the Chair is unable to serve at any time during his/her term, he/she shall be replaced by the Vice Chair and the Chair's alternate shall become a voting member. Vice Chairs on leave will be replaced from the remaining GRC members. Chairs and Vice Chairs who are absent for unforeseen reasons and for short duration shall be replaced on an ad hoc basis.

App 1.3 An alternate who was chosen as a liaison to a Grievance Committee will continue in that role until the work of that Committee is concluded, even though the principal GRC member has returned to duty.

Appendix 2. Selection of the Grievance Committee

App 2.1 After the grievant has agreed to carry the grievance forward, the Grievance Review Committee will proceed within 5 working days⁷ to the selection of a Grievance Committee for the matter. The chair of the GRC, assisted by at least one member shall select 7 full-time faculty members by random selection from the entire roster of full-time faculty at the rank of retained instructor or above, subject to the following exclusions: (a) those holding administrative positions above the rank of department chair or its equivalent, (b) members of the Senate Executive Committee and the Grievance Review Committee, (c) those who have already served on a grievance committee in the current academic year, and (d) faculty with visiting appointments.

App 2.2 The following qualifications shall be placed on the random selection: a) at least 4 members of the Committee must be tenured faculty; b) no more than 3 members from the same college may serve on the Committee; c) no more than 1 member from the same department may serve on the Committee; d) no member of the grievant's academic department may serve on the Committee.

App 2.3 The selections and exclusions based on the above qualifiers will be made from a "blind" roster of faculty identified only by rank or tenure status, college, and department. Faculty excluded by the above qualifiers in the selection of a committee will go back into the random selection pool immediately.

App 2.4 Once the tentative Grievance Committee has been chosen, the chair of the GRC will, within three working days, simultaneously send written notice of the list of committee members thus chosen to the grievant, the person(s) against whom the grievance has been filed, and the committee members, with the notation that those chosen are subject to recusal and/or challenge. Acknowledgment of the notice will be required, and it is the responsibility of the chair of the GRC to follow-up if a delay in acknowledgment occurs.

App 2.5 Recusals and Challenges. A request for recusal by a member of the committee must be made in writing to the chair of the GRC within 3 days of receipt of the notice of appointment. Requests for recusal can be based only on extreme hardship or conflict of interest. The GRC (in a quorum of four) will rule on the requests. Challenges,

⁷ If the GRC deems that a request for a Grievance Committee has come too late in the Spring term to make this feasible, then a committee should be empaneled at the beginning of the next Fall term. A grievant who requires an expeditious ruling may request that the President rule directly.

either preemptory or for cause, must be transmitted to the chair of the GRC by the parties to the grievance⁸ within 5 working days of notification of the initial list of the Committee. Each party to the grievance is allowed 2 preemptory challenges and an unlimited number of challenges for cause. Parties are cautioned against the frivolous use of the right of challenge and the resultant delays they may occasion.

App 2.6 Vacancies. Vacancies on the Grievance Committee which are caused by recusal or challenge will be filled by the same manner in which the original list was made, with the same qualifications. If, before the committee officially meets, a member becomes unable to serve, the chair of the GRC will be notified and the vacancy will be filled immediately in the standard manner. If, once the committee is empaneled, a member becomes unable to serve, the committee shall continue without its full complement, subject to a minimum of 5 members still serving, at least 3 of which must be tenured faculty.

Appendix 3. Instructions to Grievance Committees

App 3.1 Once the Grievance Committee has been empaneled, the GRC liaison will convene the Committee promptly and supervise the election of a chair and secretary. The chair's responsibilities include scheduling meetings, requesting persons to testify or present documents, and submitting the Committee's final reports to the President. The secretary keeps the Committee's records and provides the summaries of testimony (see Sect. App 3.6).

App 3.2 The Committee begins its deliberations with the documents that resulted from the administrative review process, including the grievant's formal request for departmental explanation, the department chair's response, the Form of Grievance, and the rulings from the previous steps in the grievance procedure. The Committee shall confine itself to the issues presented in these documents.

App 3.3 Although the Committee begins its investigation with the documents mentioned in the preceding paragraph, its task is not simply to review the rulings of earlier steps in the grievance process, but to determine for itself, by its own investigation, whether academic due process and fair treatment were accorded to the grievant in the decision being challenged. To further that end, the Committee may at its option accept additional documentation from any party to the grievance, accompanied by an explanation of why such documentation was not made available earlier in the grievance process. The Committee may also request additional documents from any other party or University office. When the Committee accepts additional documentation, it shall make such documents available to all parties to the grievance.

App 3.4 The Committee shall receive testimony from both parties as well as from other persons who, in the judgment of the Committee, have relevant testimony to offer. The grievant and the person against whom the grievance is brought may submit lists of witnesses to the Committee, but the Committee shall determine whom it shall invite to testify. University records and documents relevant to the case shall be made available to the Committee upon request, subject to legal restraints or pledges of confidentiality. The Committee shall attempt to elicit all sides of the issues presented to it. (Since many faculty members are not normally in residence during the Summer, the Grievance Committee should strive to receive all testimony and complete their hearings before the end of the Spring term in order to avoid having to recess for the Summer.)

App 3.5 In grievances involving decisions on promotion, tenure, merit reward, etc. the Committee may not substitute its academic judgment for that of responsible administrators or responsible faculty committees. It is not appropriate for the Committee to compare the qualifications of the grievant with those of other individuals. However, if the Committee finds that the decision being challenged was not made according to the letter and intent of established and accepted criteria and procedures, then the Committee may recommend that the decision be nullified and that the decision process begin again with safeguards to ensure that proper procedures are followed.

App 3.6 Since the Grievance Procedure concerns personnel actions, the Committee shall meet in executive session and its members shall observe a rule of confidentiality on the matter before it. When the Committee receives testimony, only the person testifying before it may be present, except that the grievant may have an attorney/advisor present when giving testimony. The grievant shall be present only when giving testimony, and he/she shall have no right of questioning others who testify before the Committee. The Committee may recall any witnesses it deems necessary in order to obtain the fullest information about the matter. Verbatim transcripts or

⁸ The parties to the grievance are taken to be the grievant(s) as one party, and the person(s) against whom the grievance has been filed as the other party.

electronic recordings shall not be made of the testimony. After witnesses have been heard, the secretary shall prepare a summary of testimony based on his/her notes taken during the hearing. This summary, which shall not identify by name or title those who have testified, shall be endorsed for accuracy by the members of the Grievance Committee.

App 3.7 Testimony will be given in person except when an extended absence from campus, illness, or other extreme hardship prevents a person whom the Committee desires to hear from appearing before the Committee. In such a case, the Committee may accept a written or recorded statement. Such a statement will not be part of the Committee record of the case, will not be reproduced, and will be returned to the sender when the Committee has finished its deliberations. All records of the Grievance Committee are confidential and are the property of the University.

App 3.8 The grievant may be accompanied at the hearing by an attorney, and/or other person of his/her choosing, whose role is limited to advising the grievant and does not under any circumstances include presentation, questioning witnesses, or addressing the committee. If the grievant chooses to have an attorney serve as advisor, the grievant must notify the Chair of the Grievance Committee at least five working days prior to the hearing. Administrators will not normally have attorneys serve as advisors at the hearing unless the grievant has chosen to have an attorney present.

FORM OF GRIEVANCE

GRIEVANT:

Name _____ **Date Submitted** _____

Rank/Dept _____

Office phone _____ **Resubmitted** _____

E-mail _____

PERSON AGAINST WHOM THIS GRIEVANCE IS BEING FILED:

Name _____

Position _____

WHAT DECISION IS THE BASIS OF THIS GRIEVANCE?

WHAT REMEDY OR RESOLUTION DOES THE GRIEVANT SEEK?

CHRONOLOGY:

Date of notification of contested decision: _____

Communications with person issuing the contested decision after the above date:

Date: Nature of communication (brief specific statement):

SUMMARY OF GRIEVANCE:

On a separate page, describe specifically the decision being grieved and how the grievant was treated unfairly, adversely affected by the decision, or how the decision violated established policies and procedures. **No more than 1 page maximum** (8 1/2 x 11", 1" margins, 12 pt/10cpi font) will be accepted. The grievant may include any appropriate matter that substantiates the grievance. In accordance with Section 1.2 of the Grievance Procedure, the statement must address (1) the decision being grieved, and (2) how the decision resulted in unfair treatment because of a failure to follow procedures.