



## STANDARD ADMINISTRATIVE PROCEDURE

### **12.99.99.M0.01 Procedures for Appeal of Faculty Complaints and Appeal of Dismissals and Sanctions for Misconduct or Serious Misconduct**

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#### **Standard Administrative Procedure Statement**

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This standard administrative procedure establishes the process for the appeal to the University Grievance Committee (UGC) of faculty complaints pertaining to conditions of work, or hours resulting from a decision issued by a college/school Dean or by the Provost in accordance with this university standard administrative procedure. In addition, this standard administrative procedure also establishes the procedure for the appeal of salary grievances. Finally, this standard administrative procedure also establishes the process for the appeal to the UGC of summary dismissal for cause decisions, dismissal for cause decisions, and disciplinary sanctions of faculty members, tenured and non-tenured track, that have been found responsible for Misconduct or Serious Misconduct.

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#### **Official SAP**

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#### **1. COMPOSITION OF THE UNIVERSITY GRIEVANCE COMMITTEE**

1.1 The UGC is a University elected standing committee of faculty members from all colleges/schools. The total membership of the UGC will be nineteen (19) faculty members. The UGC is charged with the duty and responsibility of hearing appeals on decisions regarding faculty complaints as well as appeals on the dismissal for serious misconduct, misconduct, or disciplinary actions resulting from the misconduct of any faculty member, tenured or non-tenured.

1.2 The faculty of each college/school shall elect from their faculty, tenured track or non-tenured track, one representative to serve in the UGC. All elected faculty

members must be willing, able, and available to serve for three (3) years on the UGC. A member's three (3) year appointment will commence on September 1 and shall end on August 31, three years later. UGC members are eligible to be re-elected to serve for additional terms. The office of the Vice President for Faculty Affairs in coordination with the Faculty Senate will manage the election process during the second year of each member's three (3) year term. If a UGC member is not able to complete his/her term, the Vice President for Faculty Affairs will appoint *ad hoc* another member to serve for the remainder of the term.

- 1.3 No administrative officer shall serve in the UGC. For the purposes of this SAP administrative officer is defined as a director, department head, dean, vice president, provost, or any variation thereof except below director.
- 1.4 The chair and vice chair of the UGC will be elected from among the members of UGC. The chair and vice chair shall be appointed for a term of three (3) years. Their terms will be staggered whenever possible.
- 1.5 UGC members will receive yearly focused training on the conduct of hearings on the appeal of grievances and dismissal for cause. This training is mandatory for all UGC members.
- 1.6 A Hearing Committee will consist of seven (7) voting UGC members who are assigned by the chair or the vice chair of the UGC. A quorum of four (4) members must be present to hold the hearing. For the administration of the hearing, the chair or vice chair of the UGC will chair the Hearing Committee but will not vote on the recommendation. An effort will be made to distribute participation on Hearing Committees when multiple cases are heard during an academic year. Only members of the Hearing Committee who are present for the entire hearing may vote.
- 1.7 Each Hearing Committee member is subject to challenge for cause. The chair or vice chair of UGC will rule on the validity of any challenge, and appoint replacement voting members, if necessary. (Note: Such challenges relate to the ability of a member to render an unbiased decision. The mere existence of friendships or other contacts between a Hearing Committee member and other individuals does not necessarily constitute bias.)
- 1.8 The UGC shall operate in accordance with System policies, regulations, and university rules.

A. FACULTY COMPLAINTS

2. INITIAL INFORMAL RESOLUTION EFFORT

- 2.1 Faculty members believing that they have cause for complaints based on the conditions of work or hours of work should discuss the matter in a personal conference with their department head. If the matter cannot be resolved by mutual consent, the issue should be discussed in a personal conference with the Dean unless the grievance is against the Dean, a member of the Dean's administrative team, or would be otherwise inappropriate to be heard at the college/school level, as indicated in section 2.3 below.
- 2.2 If the matter is elevated to the Dean, the faculty member must document in writing the complaint. The written complaint must describe in detail the nature of the grievance and state to whom the grievance is directed (respondent(s)). The faculty member may attach any other supporting documentation, as the faculty member deems necessary. The Dean shall have ten (10) business days to (a) decide on the complaint, or (b) refer the complaint to the college/school-wide committee or an *ad hoc* committee appointed by the Dean for recommendation before deciding.
  - 2.2.1 If the Dean chooses to decide on the complaint, the Dean will review the complaint, and supporting documentation if any, and meet with the parties and witnesses, if any. The Dean will communicate the decision in writing to the parties. The decision of the Dean may be appealed by the complainant and or the respondent to the UGC as set forth in section 5 below.
  - 2.2.2 If the Dean chooses to send the matter to the college/school-wide committee or *ad hoc* committee, it shall follow the process set forth in section 4 below.
- 2.3 When the grievance is against the Dean, a member of the Dean's administrative team, or would be otherwise inappropriate to be heard at the college/school level, the complainant must file the grievance directly with the provost. The grievance shall contain all factual or other data or documentation that the complainant deems pertinent to the case. Within ten (10) business days from the day of receipt of the grievance by the Provost, the Provost will decide on the complaint. Decisions by the Provost may be appealed to the UGC as outlined in section 5 below.

### 3. COLLEGES AND SCHOOLS INTERNAL GUIDELINES FOR REVIEWING COMPLAINTS

- 3.1 All colleges and schools should have internal procedures for reviewing complaints at the college/school level by a standing college/school-wide or *ad hoc* committee. The college/school procedures must comply with the principles of this SAP. If a college/school does not have such procedures, the process and procedures contained in this SAP will serve as the processes and procedures to be followed by the college/school in the review of the college-level grievances and recommendation thereof to the Dean.

4. SUBMISSION OF A FORMAL WRITTEN COMPLAINT TO THE COLLEGE OR SCHOOL LEVEL COMMITTEE

4.1 The Dean shall refer within ten (10) business days from receipt of the complaint, the complaint to the committee and notify the parties. Within 30 business days from the receipt of the formal letter of complaint, the committee shall hold a meeting to investigate the grievance, unless circumstances require additional time. If additional time is required, the chair of the college/school-wide committee will request in writing from the Dean an extension of time. If an extension of time is granted, such extension shall be communicated to the parties. The committee may solicit, as it deems necessary, documentation, names of witnesses, and testimony from the complainant and the respondent. The committee's decision shall be presented to the Dean, as a non-binding written recommendation, within ten (10) business days of the conclusion of the hearing, unless circumstances require additional time. If additional time is required, the chair of the college-wide committee will request it in writing from the Dean. If an extension of time is granted, such extension shall be communicated to the parties.

4.2 The Dean shall issue a decision within ten (10) business days of receipt of the committee's decision, and such decision shall be communicated to the parties. The decision of the Dean shall include a copy of the committee's recommendation, report, and any documentary evidence thereof.

4.3 The decision from the Dean may be appealed to the UGC as outlined in section 5 below.

5. APPEALING DECISIONS ON FACULTY COMPLAINTS TO THE UNIVERSITY GRIEVANCE COMMITTEE

5.1 The complainant or the respondent to the complaint may appeal the decision of the Dean within ten (10) business days from receipt of the decision, by filing the written appeal directly with the Senior Associate Vice President for Faculty Affairs petitioning the UGC for redress.

5.2 The complainant or the respondent to the complaint may appeal the decision of the Provost, as per section 2.3 above, within ten (10) business days from receipt of the decision, by filing the written appeal directly with the Senior Associate Vice President for Faculty Affairs petitioning the UGC for redress.

5.3 Upon receipt of an appeal to the UGC, the Senior Associate Vice President for Faculty Affairs will refer the appeal to the UGC. The UGC will consider the appeal within five (5) business days after its receipt.

- 5.4 Appeals concerning decisions made by a Dean or the Provost will be heard by the UGC Hearing Committee as selected in accordance to section 1.6 above with the exception that UGC members should not be from the same college/school as the faculty member making the appeal. The UGC Hearing Committee will have thirty (30) business days to hear the appeal and issue a recommendation through the chair or vice chair of the UGC to the Senior Associate Vice President for Faculty Affairs.
- 5.5 Appeals must be submitted in writing with any existing evidence in support of the appeal. The appeal must clearly indicate the procedural error(s) of the Dean's or Provost decision in which the appeal is based. The UGC must adhere to its charge and not take a role of mediator, conciliator, or deviate into matters that have not been alleged in the appeal.
- 5.6 At the conclusion of the hearing the UGC through its chair or vice chair, will make a recommendation to the Senior Associate Vice President for Faculty Affairs within the timelines set in section 5.4 above. In its recommendation, the UGC may (i) find that the appeal lacks sufficient merit to be considered by the UGC, (ii) affirm the Dean's or Provost decision by agreeing with the decision, or (iii) request that the Dean's or Provost decision be remanded due to a procedural error.
- 5.7 Notwithstanding the foregoing, if additional time is required for rendering any of the actions outlined in the subsections above, extensions of time shall be requested in writing by:
- The chair of the UGC from the Senior Associate Vice President for Faculty Affairs
  - The Senior Associate Vice President for Faculty Affairs from the Vice President for Faculty Affairs
- 5.8 The appellant will have ten (10) business days to appeal the Senior Associate Vice President for Faculty Affairs decision to the Vice President for Faculty Affairs. Appeal to the Vice President for Faculty Affairs must be received by the Faculty Affairs Office on or before the tenth (10) business day. If no appeal is received or if the appeal is received after the stated appeal period, the Senior Associate Vice President for Faculty Affairs decision will become final.

B. SALARY COMPLAINTS

6. SALARY COMPLAINTS

Faculty members believing that they have cause to complaint based on their salary should follow the following procedure for addressing their salary complaint:

- 6.1 Salary grievances are to be handled primarily through administrative appeal. A faculty member who wishes to file a salary grievance should first have a personal conference with their department head. If the result of that conference is not satisfactory to the grievant, the faculty member may appeal to the college/school Dean. If a satisfactory outcome is not reached, an appeal may be made to the Senior Associate Vice President for Faculty Affairs, who will act as ombudsperson in attempting to resolve the case through discussions with the college dean and the grievant. The Senior Associate Vice President for Faculty Affairs may choose to have an *ad hoc* faculty committee appointed to advise the Senior Associate Vice President for Faculty Affairs. Likewise, the complainant may request in the appeal that the Senior Associate Vice President for Faculty Affairs appoint an *ad hoc* committee to advise the Senior Associate Vice President for Faculty Affairs.
- 6.2 The *ad hoc* faculty committees shall be appointed by the Senior Associate Vice President for Faculty Affairs and be comprised of three faculty members normally chosen from within the grievant's college. Prior to convening, the grievant may provide a list of two to three faculty members of his/her choice to be appointed to serve on the *ad hoc* committee of which the Senior Associate Vice President for Faculty Affairs will choose one to serve on the committee. The Senior Associate Vice President for Faculty Affairs' decision will be final in regard to the formation of the *ad hoc* committee. The committee's rules of operations are delineated below:
- 6.2.1 The grievant will provide a written statement of the basis for his or her appeal, and the committee will then decide whether the grievance merits a detailed investigation. If so, the grievant will have the opportunity to meet with the committee. If such an investigation is undertaken the committee will determine what materials it needs for the investigation. Materials which may be consulted include (but are not limited to) a salary history of the grievant in comparison with other members of the department and a curriculum vitae for the grievant as well as for other members of the department as deemed necessary.
- 6.2.2 The recommendation of the committee, including a description of the committee's proceedings and reasons for its recommendation, will be reported to the Senior Associate Vice President for Faculty Affairs and to the grievant.
- 6.3 The Senior Associate Vice President for Faculty Affairs will report his or her decision to the grievant. If procedures in 6.1 and 6.2 do not produce a resolution acceptable to the grievant, the grievant may make a final appeal directly to the Vice President for Faculty Affairs, who will review the case both procedurally and substantively before making a final decision.
- 6.4 The appeal process should normally be completed within a single fiscal year and

should be handled as expeditiously as circumstances permit.

C. SUMMARY DISMISSAL OR DISMISSAL FOR SERIOUS MISCONDUCT

7. DISMISSAL DECISIONS FOR SERIOUS MISCONDUCT

- 7.1 A decision to dismiss a tenured faculty member must be based on good cause (as defined in section 6.3 of [University Rule 12.01.99.M1](#)) and a decision to dismiss a non-tenured faculty member for cause prior to the expiration of an appointment shall be consistent with section 5.1 of [University Rule 12.01.99.M1](#), Rights of Non-Tenured Faculty Members.
- 7.2 A tenured faculty member or a non-tenured faculty member whose term appointment has not expired may be subject to summary dismissal or suspension with pay pending dismissal if the stated cause for dismissal is a finding of Serious Misconduct that has been substantiated by an investigation and decision conducted in accordance with system policy or regulation, university rule, or standard administrative procedure.
- 7.3 For purposes of this SAP, Serious Misconduct includes, but is not limited to, conduct resulting in violation of:
- [System Policy 07.01, Ethics](#)
  - [System Regulation 07.05.01, Consensual Relationships](#)
  - Sections 6.3.4, 6.3.5, 6.3.6, 6.3.7, 6.3.8, and 6.3.11 of [University Rule 12.01.99.M1, University Statement on Academic Freedom, Responsibility, Tenure, and Promotion](#)
  - [University Rule 08.01.01.M1, Civil Rights Compliance](#) and related [SAP 08.01.01.M1.01](#)
  - [University Rule 15.02.99.M1, Export Controls Program Management](#)
  - Research Misconduct
- 7.4 Tenured faculty members subject to an intended dismissal for Serious Misconduct under these procedures do not have the right to mediation provided in section 8.1 of [University Rule 12.01.99.M1](#).

8. PROCEDURES FOR NOTIFYING A DECISION OF DISMISSAL FOR SERIOUS MISCONDUCT

- 8.1 A tenured faculty member or a non-tenured faculty member whose term appointment has not expired may be dismissed for Serious Misconduct at the conclusion of the investigation process and decision thereof. This decision to dismiss for Serious Misconduct process may be in the form of a summary dismissal or a suspension with pay pending dismissal.

- 8.2 Prior to issuing the notice of intent to summarily dismiss or notice of intent to suspend with pay pending dismissal to the faculty member, the department head shall seek approval from the College/School Dean. To this end, the department head shall provide the Dean with the written charges for the dismissal and an explanation of the evidence.
- 8.3 Upon approval by the Dean, the faculty member will be provided by the department head with a notice of intent to summarily dismiss or of intent to dismiss which shall contain the written charges for the dismissal, explanation of the evidence, and an opportunity to respond to an administrator within five (5) business days from the receipt of the notice in accordance with section 8.5 below.
- 8.4 If the intent to summarily dismiss is as a result of a Title IX investigation and decision thereof by the Designated Administrator (DA), the faculty member upon receipt of the notice, may appeal the decision to the Sr. Associate Vice President for Faculty Affairs in accordance with section 6 of [Standard Administrative Procedure 08.01.01.M1.01](#).
- 8.5 On all other Serious Misconduct matters not resulting from sexual harassment or sex-based misconduct, the faculty member upon receipt of the notice of intent to dismiss will have five (5) business days to respond to the Sr. Associate Vice President for Faculty Affairs or otherwise the designated administrator identified in the notice of the intent to dismiss. Should the opportunity to be heard by the designated administrator not achieve a satisfactory resolution or should the faculty member not exercise this opportunity within the prescribed time, a formal notice of dismissal shall be issued.
9. PROCEDURES FOR APPEALING A DECISION OF DISMISSAL FOR SERIOUS MISCONDUCT
- 9.1 A faculty member who receives a written formal notice of dismissal for Serious Misconduct in accordance with section 8.3 above and who contests the dismissal must submit a written notice of appeal to the President within ten (10) business days of receiving the notice of dismissal. Should the faculty member not appeal the formal notice of dismissal, the dismissal will become final after ten (10) business days from the date of the formal notice of dismissal.
- 9.2 The faculty member may request within five (5) business days after submission of the appeal a copy of all documents relevant to that decision, such as the dismissal file. Such materials shall be given to the faculty member within five (5) business days from the date in which the request for material was received.
- 9.3 The President or designee must notify the Chair of University Grievance



Committee (UGC) within five (5) business days of the date the notice of appeal was received. The office of the Vice President for Faculty Affairs will provide staff support to schedule a hearing. The hearing shall be conducted in accordance with the process set out in sections 10 and 11 below.

- 9.4 The appeal does not create an entitlement to a new investigation or a full re-hearing of the matter. The appeal is confined to determination of whether the dismissal decision is based upon good cause under section 6.3 of [University Rule 12.01.99.M1](#).

## 10. HEARING PROCEDURES IN THE APPEAL OF DISMISSALS FOR SERIOUS MISCONDUCT

- 10.1 The President or designee will assign the person who will serve as the University's representative at the hearing. Both the faculty member and the University representative have the right to representation by legal counsel. Outside the hearing, either party may use legal counsel to assist in preparation of their case and to interview witnesses.
- 10.2 When a faculty member submits a notice of appeal of the summary dismissal or dismissal, the UGC Hearing Committee shall promptly schedule a hearing to be completed with twenty (20) business days of being notified by the President or designee. The Chair of UGC may extend the time for completing the hearing five (5) business days for good cause shown for extenuating circumstances caused by the University administration, or for good cause shown for extenuating circumstances on the part of the faculty member.
- 10.3 Both the University representative and the faculty member shall have the right to call witnesses and to question all witnesses who testify orally.
- 10.4 The burden of proof is on the University to establish by a preponderance of the evidence the existence of good cause for dismissal.
- 10.5 The parties may submit to the UGC written briefs on behalf of the University's representative and by the faculty member or designated representative.
- 10.6 The proceeding shall be steno graphically transcribed or recorded with transcription, and copies made available to either party upon request.
- 10.7 The Hearing Committee must complete its report within ten (10) business days of the completion of the hearing.
- 10.8 The hearing shall be closed unless the affected faculty member requests that it be open.

## 11. FINDINGS AND RECOMMENDATIONS

- 11.1 The UGC Hearing Committee's findings and recommendations shall be conveyed in writing to the President, the Vice President for Faculty Affairs, and the faculty member.
- 11.1.1 If the faculty member has been summarily dismissed, UGC will formulate explicit findings with respect to each of the grounds for dismissal and recommend whether, in its judgment, there is good cause for dismissal.
- 11.1.2 If the faculty member has not been summarily dismissed or suspended without pay pending dismissal, UGC will formulate explicit findings with respect to each of the grounds for dismissal and recommend whether, in its judgment, there is good cause for dismissal.
- 11.2 If the UGC Hearing Committee recommends that good cause for dismissal does not exist, the President will decide whether to accept that recommendation. If the President accepts the recommendation, the faculty member shall be reinstated, and the appeal terminated. If the President does not accept the UGC Hearing Committee's recommendation, the dismissal will proceed under section 11.3 below.
- 11.3 If the tenured faculty member's appointment is to be terminated by decision of the President, the President shall transmit the full report of the Hearing Committee, the record of the hearing, the President's decision, and other relevant documentation available to both the faculty member and the University to the Chancellor or designee, who will carry out a review of the documentation in accordance with section 8.2.3 of [System Policy 12.01](#).
- 11.4 A faculty member's termination from employment will be effective as determined by the Chancellor, upon a finding by the Chancellor, pursuant to these procedures, that there is good cause for the decision and faculty member's dismissal. This decision is final.

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**Related Statutes**

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*Supplements* [System Regulation 32.01.01](#)

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**Contact Office**

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[Faculty Affairs](#)