CHAPTER 7: FACULTY GRIEVANCES

SECTION 7.1 Purpose

A grievance may be filed for an alleged violation of rights including those provided by, established University policies, the Faculty Handbook, or the faculty member's contract.

The grievance process provides a means to resolve disputes that have not been resolved through the normal process of reasoned discussion. The grievance process is intended to define clearly the matters that are at issue; to assure the faculty member that his/her complaint or problem has been presented to and considered by appropriate University officials and bodies; and to assure the University community that decisions involving faculty members in their relationship to the University are fully considered.

A grievance relating to reappointment, promotion or tenure are limited to (1) a claim that the person was not fairly evaluated because of violations of procedures that materially compromised the review process, or (2) a claim that the person was not fairly evaluated on the merits of the case because of violations of academic freedom, or bias or prejudice prohibited by law.

Grievances concerning unlawful discrimination, harassment, or retaliation are handled under the separate procedures provided in the University’s Anti Discrimination and Harassment Policy in Chapter 6 (Section 6.3) Allegations of misconduct in scholarship and research are handled under the process set out in Chapter 5.

SECTION 7.2 Procedures

7.2.1 Preliminary Proceedings

When a faculty member believes his or her rights as a faculty member have been violated, he or she should ordinarily discuss the matter with the relevant chair, dean, or other administrator(s) to reach a mutual settlement. When possible, this should include at least the direct administrative officer against whom the formal grievance may be filed, and if settlement is not reached, the administrator to whom the first reports. If settlement does not result, and the faculty member continues to believe that there is probable cause for grievance, he or she may file a grievance, as described in the next sub-section.

The faculty member is encouraged to seek the counsel of the chair of the Senate Committee on Faculty Tenure, Freedom and Responsibilities at an early stage. All parties are encouraged to seek mediation to resolve disputes.

7.2.2 Initiating the Grievance: School-Based Processes

Formal proceedings for a faculty grievance shall commence within the aggrieved faculty member’s school and following the procedures outlined by the school for the operations of its standing Grievance Committee (See Policy for School-Based Grievance Procedures)
at XXXX). Typically, the faculty member must file a grievance in writing to his or her school’s standing grievance committee within six months of the discovery of the action on which the grievance is based.

The school’s dean’s office shall maintain all grievance records in a confidential manner.

The grievance must clearly state the nature of the dispute and the relief being sought.

Two or more persons with essentially the same grievance may file a single grievance, covering all of them. If an individual files a grievance, and it is later discovered that one or more others are similarly affected, the others may ask to join the original grievant at any stage of the grievance procedure.

7.2.3 Pursuing the Grievance Beyond the School

If the faculty member believes the decision of the school’s standing grievance committee is unsatisfactory, he or she may bring the grievance forward to the Senate Committee on Faculty Tenure, Freedom, and Responsibility (FTFR) within six months of the first findings. Again, the grievance must clearly state the nature of the dispute and the relief being sought.

Within five working days, the chair of FTFR shall notify the parties involved in the grievance and provide a copy of the grievance to the Senior Vice President for Academic Affairs and Provost and the General Counsel’s Office.

The submission of a grievance to FTFR will not automatically result in an investigation or detailed consideration of the grievance. If FTFR determines that a further investigation is not warranted, it shall report that finding to the grievant, the Senior Vice President for Academic Affairs and Provost, and the General Counsel’s Office within 10 working days of receipt of the grievance. If FTFR determines that further action is warranted, it will proceed as outlined below.

7.2.4 Resolving the Grievance Prior to a Grievance Hearing

Upon acceptance of a grievance, the chair of FTFR shall request that the General Counsel’s office begin procedures for mediation.

If the grievance is resolved to the satisfaction of the grievant, the grievant shall report this fact, in writing, to the chair of FTFR and the case is closed. If the grievant at any time requests, in writing, to the chair of FTFR that a grievance hearing be held, or if mediation has not led to settlement within 30 working days of the filing of a grievance, the chair of FTFR shall notify the Senior Vice President for Academic Affairs and Provost, indicating that mediation has not been successful and indicating that a grievance hearing will be held. Upon written agreement of both the Senior Vice President for Academic Affairs and Provost and the grievant, an extension of the 30 working day mediation period may be granted. At any time during extended mediation, the grievant shall have the right to
request, in writing, the commencement of formal proceedings. In no case shall the total time for mediation exceed 60 working days.

In the event that new, pertinent, and substantive information is discovered after mediation has been declared unsuccessful, the matter may be returned to mediation upon written agreement of both the Senior Vice President for Academic Affairs and Provost and the grievant, provided that a grievance hearing has not yet begun. At any time during renewed mediation, the grievant shall have the right to request, in writing, a formal hearing, but in no case shall the renewed mediation exceed 30 working days.

SECTION 7.3 Grievance Hearings

At the end of an unsuccessful mediation period or upon a request, in writing, by the grievant, the chair of FTFR shall convene a grievance hearing within 20 working days at a time and location convenient to all.

7.3.1 Recusals

Any member of FTFR who has a conflict of interest in the grievance, as determined by the Chair, shall be recused from discussion and vote in that grievance.

7.3.2 Confidentiality

Grievance hearings shall be private and all matters pertaining to the grievance shall be kept strictly confidential.

7.3.3 Burden of Proof

The burden of proof shall rest upon the grievant.

7.3.4 Evidence

The FTFR Committee shall not be bound by strict rules of legal evidence and has the discretion to determine what evidence is relevant to the issues involved. The Committee will offer all parties the opportunity to present witnesses, documents, or other evidence it considers relevant.

7.3.5 Representation

Faculty grievants may bring an advocate to the hearing, as long as the advocate is a faculty member of the University and receives no compensation for being an advocate. The role of the advocate is to serve in a consulting capacity. An advocate may address the committee with the permission of the Chair.

All parties may also be represented by legal counsel at the grievance hearing and should
notify the Chair of their intention to do so.

7.3.6 Process

a) The Chair of FTFR shall be responsible for conducting the hearing and shall rule on all evidentiary questions. The chair shall set the order of argument and of presentation and may exclude irrelevant or unduly repetitious evidence or argument.

b) The Chair will instruct the Committee that its recommendations must be in accordance with established University policies including those contained in the Faculty Handbook and the faculty member’s contract.

c) A full written or audio recording of the hearing shall be maintained and made available upon request only to the parties, FTFR members, and the President and/or his or her designee. The recording shall be kept for at least one year after the termination of the grievance.

SECTION 7.4 Outcomes

7.4.1 General Procedures

At the conclusion of the hearing, as promptly as is consistent with due deliberation and, in any event, not later than 10 working days thereafter, the Committee shall make its recommendation. The findings of fact and recommendation of the Committee shall be based solely on the record of the hearing. The recommendations shall be in writing, shall state the basis for the decision, and shall recommend any proposed remedial action. The written recommendation shall be provided to each party to the grievance and to the Senior Vice President for Academic Affairs and Provost and to the President or the President’s representative.

7.4.2 Specific Procedures for Grievances Related to Reappointment, Promotion or Tenure.

In considering grievances related to reappointment, promotion, or tenure, the Committee shall not substitute its judgment on the substantive merits of the decision, including the requirements of the academic unit or the candidate’s professional qualifications, for that of the appropriate faculty body or bodies and administrators. The Committee shall only consider whether the decision was a result of adequate consideration of the procedural standards of the school and the University as a whole.

a) If the Committee concludes that adequate consideration of the procedural standards was not given, it shall report its findings to the Senior Vice President for Academic Affairs and Provost and the grievant and will recommend reconsideration by the appropriate faculty body or bodies and administrators, indicating why it believes the review process was inadequate (for example, failure to seek out and consider all available evidence bearing on the performance of the candidate, inadequate deliberation on the import of evidence in light of relevant standards, inclusion of irrelevant or improper standards and any other indication
that the decision was not conscientiously arrived at or that it was not a *bona fide* exercise of professional academic judgment. This reconsideration must be completed **within 30 working days** of the Committee’s notification of the decision.

b) If the Committee concludes that there was an unfair evaluation because of considerations violative of academic freedom or prejudice, it shall report its findings to the Senior Vice President for Academic Affairs and Provost and the grievant and it will recommend reconsideration by a new faculty body and by administrators, indicating the nature of what it considers to be unfair judgment. This reconsideration must be completed **within 30 working days** of the Committee’s notification of the decision.

c) Following reconsideration by the decision-making body, the Committee may conclude that the procedural inadequacies found in its original investigation require some form of correction or redress by the University. Should the Committee consider recommending redress, it shall first meet with the appropriate decision-making body and with the Senior Vice President for Academic Affairs and Provost **within 10 working days of the reconsideration**. The Committee shall not recommend the nature of the correction or redress, nor shall it recommend damages.

d) The final recommendations of the Committee shall be communicated to the claimants, the Senior Vice President for Academic Affairs and Provost, the President, and the other faculty committees involved in the decision **within 10 working days**.

### 7.4.3 Final Disposition

**Within fifteen working days** following receipt of the Committee’s findings, conclusion, and statement of reasons, the Senior Vice President for Academic Affairs and Provost, the President, or the President’s representative, as appropriate, shall either agree or disagree with all or any portion of the Committee’s report and notify the Committee, the faculty members involved, and any other parties to the grievance of any disagreement with all or any portion of the Committee’s report, stating reasons for such disagreement in writing. The President or the President’s representative shall allow **fifteen working days** for the response of the Committee before making a final decision in the case and communicating that decision to all in writing.