

POLICY MEMORANDUM NO. 243

TO: All Faculty
FROM: Charles W. Steger *MS*
DATE: October 12, 2007
SUBJECT: Valid Issues for Faculty Grievances

Approved by the Commission on Faculty Affairs: October 13, 2006
Approved by University Council: December 4, 2006
Approved by the President: December 4, 2006
Approved by the Board of Visitors: March 26, 2007
Effective: Fall 2007

The Board of Visitors approved a resolution revising sections of the Faculty Handbook dealing with valid issues for faculty grievances.

Following is the text of that resolution.

WHEREAS, several recent cases concerning promotion and tenure revealed differing views on whether the issues at hand were appropriately a matter for consideration through the grievance process, or whether they should be dealt with through P&T appeal procedures only;

WHEREAS, the Faculty Senate believes that the grievance process is a more effective vehicle for investigation and resolution of allegations of procedural violations occurring as part of the promotion and tenure review process, and that existing promotion and tenure committees at all levels are best focused on reviewing appeals based on the merits of the case; and

WHEREAS, participants in the grievance and reconciliation process seek greater clarification of grievable and non-grievable issues;

THEREFORE, be it resolved that section 2.13.1 of the Faculty Handbook be revised to clarify grievable issues to include substantive issues of process related to promotion and/or tenure and to update references to the role of the Faculty Senate Committee on Reconciliation.

2.13 Faculty Grievance Policy and Procedures

The following procedure is provided as the means for resolution of grievances against a member or members of the university administration brought by

members of the instructional faculty, or library or extension and outreach faculty on continued appointment.

2.13.1 Valid Issues for Grievance

For this process, a grievance is defined as a complaint by a faculty member alleging a violation, misinterpretation, or incorrect application of policy, procedure, or practice of the university directly affecting the grievant. Some examples of valid issues for filing a grievance are:

1. improperly or unfairly determined personnel decisions that resulted in: unsatisfactory annual performance evaluation, unreasonable merit adjustment or salary level, or excessive teaching load/work assignments;
2. substantive violations of promotion and tenure *procedures* [appeals based on the merits of a promotion and tenure decision are handled by procedures in section 2.8.5 of the Faculty Handbook];
3. reprisals;
4. substantive error in the application of policy;
5. matters relating to academic freedom;

Issues not open to grievance: While most faculty disputes with the university administration may be dealt with by this grievance policy, the following issues cannot be made the subject of a grievance:

1. determination of policy appropriately promulgated by the university administration or the university governance system;
2. those items falling within the jurisdiction of other university policies and procedures (for example, complaints of unlawful discrimination or harassment, or an appeal related to the merits of a promotion and tenure decision);
3. the contents of personnel policies, procedures, rules, regulations, ordinances, and statutes;
4. the routine assignment of university resources (e.g., space, operating funds, parking, etc.), and
5. normal actions taken, or recommendations made, by administrators or committee members acting in an official capacity in the grievance process.
6. termination of appointment by removal for just cause, non-reappointment, or abolition of position, or
7. allegations of misconduct in scholarly activities.

The subject of a grievance will normally not be considered by the Faculty Review Committee while it is simultaneously under review by another committee or panel of the university.

[Intervening sections omitted.]

2.13.3 The Grievance Process: Collegial Communications

Informal Dialogue: It should be possible to resolve most faculty concerns or complaints through informal communication among colleagues working together in the academic enterprise. Accordingly, a faculty member who feels he or she has a grievance is encouraged to take it to his or her immediate supervisor in the normal collegial spirit of problem solving rather than as a confrontation between adversaries.

Reconciliation: At the initiation of the grievance procedure the grievant may request the assistance of the Faculty Senate Committee on Reconciliation in fashioning an equitable solution. Contacting the Faculty Senate Committee on Reconciliation is not required in filing a grievance, but it may be useful if the grievant feels the issue may be amenable to, but will require time for, negotiation; or if the grievant is unsure whether his or her concern is a legitimate issue for a grievance; or if personal relations between the parties involved in the grievance have become strained.

For a potential grievance issue to qualify for consideration by the Faculty Senate Committee on Reconciliation, the grievant must submit a request for reconciliation concurrently to the provost's office and the chair of the Faculty Senate Committee on Reconciliation within 30 calendar days of the time when the grievant knew or should have known of the event or action that is the basis for the potential grievance, just as if beginning the regular grievance process. The provost will automatically grant a 60-day postponement of grievance timelines for the Committee on Reconciliation to attempt to resolve the complaint between the parties. If the opportunity for reconciliation does not appear possible based on the committee's evaluation of the situation, the parties and the provost are so informed. The faculty member then proceeds with formal review of the complaint through the grievance procedure if so desired and in accordance with established time lines.

The Faculty Senate Committee on Reconciliation may also be consulted by faculty members concerning disputes and conflicts with immediate supervisors or other university administrators concerning issues that may not be eligible for consideration within the grievance process. In such instances, the Committee will contact the relevant administrator to determine if there is an interest and willingness to explore informal resolution of the dispute. (The provost's office need not be notified to initiate discussions with the committee in such instances.)