

ATTACHMENT 3
Proposed Changes to University Handbook, Appendix G:
Administrative Appeal and Grievance Policy and Hearing Procedures
Approved by Faculty Affairs and Professional Staff Affairs

The Faculty Affairs Committee and the Professional Staff Committee request that the following changes to Appendix G be approved. These changes address what types of issues are eligible for a grievance hearing.

As historical background, the general substance of this change was requested by Faculty Senate leaders and the administration some time ago in order to reduce the waste of time and resources expended in hearings for “thermostat” cases (full panel grievance hearings on relatively minor issues). In addition, hearing participants, including faculty witnesses, as well as department heads and Faculty Senate leaders who have observed or assisted with hearings, have complained that a University policy allowing minor issues to be brought before a full hearing panel gives individual faculty an untenable amount of power to disrupt a department and ties the hands of department heads who are trying to address difficult personnel problems such as departmental bullies. There have been concerns that when an individual can drag a department head, dean and many faculty and students in the department through a polarizing, extremely time-and energy-consuming grievance hearing just to grieve a statement in an annual evaluation, department heads are understandably unwilling to address the behavior and, as a result, subject the departmental community to stress and disruption.

With this amendment, grievances on **all** matters may still proceed through all dispute resolution, complaint and appeal steps all the way through the administrative appeal, only stopping short of a grievance panel hearing. Matters considered to be significant will be eligible to proceed beyond the formal administrative appeal to a grievance hearing. Significant matters are those that concern on-going employment and an individual’s earning capacity. This change is intended to save valuable faculty time and University resources while still preserving individual grievance rights.

UNIVERSITY HANDBOOK, APPENDIX G: ADMINISTRATIVE APPEAL AND GRIEVANCE POLICY AND HEARING PROCEDURES

Administrative Appeal and Grievance Policy and Hearing Procedures

(FSM 9-8-81, 2-16-88, 9-10-91, 1-21-92, 12-14-99, 4-14-09, 11-15-2011, 2-14-2012)

Introduction

The Administrative Appeal and Grievance Policy and Hearing Procedures are part of the university's dispute resolution system. This policy is to provide a process for addressing grievances of faculty and unclassified professionals. In cases regarding the dismissal of a tenured faculty member, the policies and procedures of Appendix M of the University Handbook shall be followed. In cases regarding allegations of discrimination or harassment based on race, color, ethnic or national origin, sex, sexual orientation, gender identity, religion, age, ancestry, disability, military status or veteran status, or retaliation resulting from filing a complaint or participating in the resolution of a complaint of the preceding issues, the policies and procedures as described in the PPM shall be followed. All reasonable efforts should be made by the aggrieved person to resolve the issue through the normal administrative and dispute resolution channels prior to submitting a grievance hearing request. KSU has several resources available to faculty and unclassified staff for dispute resolution. For more information see the Dispute Resolution web page: <http://www.k-state.edu/disputeresolution>.

Resources

Ombuds are available to provide assistance to faculty and unclassified professionals in the resolution of concerns and disputes that arise within the university. Faculty and unclassified professionals are encouraged to contact an ombudsperson before making an administrative appeal or filing a grievance. Ombuds are neutral parties and do not serve as advocates.

Mediation is also an option available to faculty and unclassified professionals at any time, including during the process of filing or actively going through the grievance process. See Appendix U: Policy on Mediation. If mediation is entered into during the pre-hearing grievance process, the process will be stopped and if the mediation is unsuccessful, the process will resume where it was interrupted. In cases of unsuccessful mediation when a grievance panel has been assembled but the hearing has not yet convened, and the faculty or unclassified professional wishes to continue with the grievance process, then it will resume as described in Section II D.

Human Systems Consulting is available to all faculty and staff of Kansas State University at no cost to the person or persons receiving services. The service is designed to help resolve problems with workplace relationship issues and can focus on communication, relationship style, stress management, attitude, and other related issues. The goal of the consultation is to help people work better together and prevent more serious problems from developing.

A representative is a person who may advocate on behalf of the complainant or grievant. The representative may assist in the preparation and presentation of information as part of an administrative appeal or grievance. The representative may not be a practicing attorney; however, complainants or grievants may have the assistance of attorneys to advise them at any time, including having them present during grievance hearings as provided in the grievance hearings section of this policy.

Jurisdiction

The Administrative Appeal and Grievance Policy and Hearing Procedure's jurisdiction shall extend to charges or allegations, hereafter referred to as complaints, arising out of administrative action or for which administrative action could provide a remedy. It is required that a complainant pursue administrative appeal prior to requesting a grievance hearing.

1. Nature of complaints: Complaints may arise out of decisions concerning reappointment, tenure, dismissal, promotion, salary, working conditions, or any other matters related to the employment of a faculty or unclassified professional member or other unclassified personnel.
2. Eligibility: Administrative appeals and requests for grievance hearings may be filed by current faculty or unclassified professionals.
3. Grounds: Grounds for a complaint shall include, but are not limited to:
 - a. violation or misapplication of the written rules, regulations, or established practices governing the university and its units;
 - b. improper, arbitrary, or capricious action of the university or its agents; and
 - c. violation of academic freedom.
4. Exhaustion of administrative remedies: Before submitting a request for a grievance hearing, the complainant must attempt to resolve the complaint through normal administrative processes, culminating in the required administrative appeal specified by Section I. The complainant should pursue all appropriate avenues of dispute resolution prior to requesting a grievance hearing.
5. Grievance hearings: For most complaints, the final step available in the process is the Administrative appeal. Only complaints based on the following actions are eligible to proceed to a grievance hearing:
 - a. termination for cause of a continuous appointment or dismissal for cause previous to the expiration of a term appointment;

- b. non-reappointment of tenure-track faculty;
- c. denial of tenure;
- d. denial of promotion of tenure-track or tenured faculty; or
- e. an evaluation rating of fails to meet minimum-acceptable levels of productivity as referenced in Section C31.5

I. Administrative Appeals

A written appeal to the appropriate administrator is the first step in the grievance process and must be completed before proceeding to a grievance hearing. This appeal should include all issues of concern to the complainant that may be brought up during the grievance process. Issues not raised in this appeal may not be included in a grievance hearing pertaining to the administrative action in question. Proposed remedies may also be included in the appeal. The written appeal must be submitted within thirty (30) work days from the administrative action at issue.

For the purpose of Appendix G, a “work day” is defined as any weekday on which classes are held that falls within the nine-month academic year (meaning the span of time beginning with the first day of fall classes through the last day of spring classes), including winter intersession class days, plus fall finals days and weekdays during spring break. All other days are excluded from the definition of “work day.” (Revision, FS 5/4/12)

A. Tenure-related

For a complaint regarding tenure, the complainant shall follow the procedures in the sections C114.2-C114.3 of the University Handbook. For a complaint regarding promotion of faculty members, the complainant shall follow the procedures in section C154.2-C154.3 of the University Handbook. For a complaint against the primary action of a dean or regarding reappointment of a tenure-track faculty member, the complainant shall present the complaint in writing to the provost or designee.

B. Other

For all other complaints, the complainant shall present the complaint in writing, which is the administrative appeal, to the appropriate dean or vice president.

C. Process

Once the written administrative appeal is submitted, the administrator will investigate and arrange a meeting with the complainant to discuss and attempt to resolve the complaint.

Except under extenuating circumstances, the administrator will contact the complainant within ten (10) work days after receiving the written administrative appeal to schedule a meeting. A good faith effort should be made to hold the meeting in a timely manner. An **ombudsperson** may be included in the meeting at the request of the complainant. Within ten (10) work days after the meeting, the administrator will provide the complainant with a written response.

If the appeal is not resolved by the appropriate administrator to the satisfaction of the complainant, the complainant may submit a written request for a grievance hearing to the grievance chair within thirty (30) work days following the receipt of the administrator's written response.

II. Grievance Hearings

A. Grievance Chair

Function

The Grievance Chair is appointed by and responsible to the executive committee of the Faculty Senate. The Grievance Chair is selected from faculty members and serves a three-year term beginning on the first day of the fall semester. It is desirable that the Grievance Chair have experience with dispute resolution at the university. The role of the Grievance Chair is to:

- a. receive complaints and review them to determine if criteria for grievances are met;
- b. facilitate with the parties the selection of the grievance hearing panel; and

c. assist in organizing and overseeing the administrative processes of the grievance hearing.

B. Grievance Hearing Request

1. If the administrative appeal is not resolved by the appropriate administrator to the satisfaction of the complainant, and the complaint is eligible for a grievance hearing, the complainant may then submit a written request for a grievance hearing to the Grievance Chair within thirty (30) work days from receipt of the administrator's decision. The grievance hearing process shall be initiated by this written request, with a detailed statement of the grievance. The written request shall include:

- a. an account of the administrative action(s) that gave rise to the grievance and the respective dates;
- b. the name(s) of the administrator(s) who will be the respondent(s);
- c. the precise grounds and the specific factual allegations upon which the grievance is based;
- d. whether an "open" or "closed" hearing is requested; and
- e. the nature of the relief sought.

Immediately upon receipt of a written request for a grievance hearing, the Grievance Chair shall notify and provide copies of the request to the respondents, the administrator who decided the administrative appeal, if any, and the Office of General Counsel.

Only issues cited in the written grievance request and in the preceding administrative appeal may be addressed in the grievance hearing request. Additional issues that were not subject to the administrative appeal may not be added by the complainant at the grievance stage.

2. Delay of Grievance Hearing Request Time Limit

The thirty (30) work day time limit may be extended for good cause. Before the expiration of the 30 work day time limit, the grievant may file a written request for an extension of the thirty (30) work day time limit to the Grievance Chair, who will review and rule on the

request after consultation with both parties and may consult with the Faculty Senate President. Grounds for an extension may include but are not limited to:

- a. ongoing dispute resolution process, or
- b. extenuating personal circumstances.

C. Eligibility Determination

The Grievance Chair shall determine whether the grievance falls within the jurisdiction of the Grievance Policy, and whether the materials presented by the grievant meet adequate standards of detail and clarity. If the Grievance Chair wishes to consult with a grievance hearing panel attorney, as specified in section H.1, to make eligibility determinations, administration should be notified to make the arrangements.

1. Within five (5) work days from the receipt of the materials, the Grievance Chair will make a determination on the acceptance of the grievance, *i.e.* the Grievance Chair's determination as to whether the grievance meets all jurisdictional eligibility requirements.

2. If the grievance is not accepted, the Grievance Chair will so notify the complainant, the respondent(s) and the administrator who decided the administrative appeal, if any, and the Office of General Counsel.

3. If the grievance is accepted, within five (5) work days from the date of acceptance the Grievance Chair shall give to both parties written notification of the acceptance, including a list of the materials to be submitted (see II.D.3). The date appearing on the written notification from the Grievance Chair is the date of notification.

D. Pre-Hearing Resources and Activities

1. Before the hearing is convened, each party may designate one or both of the following to assist the party in the hearing:

- a. a representative, who is neither a practicing attorney nor an ombudsperson, to serve as an advocate and/or assist in the preparation and presentation of the grievance;

b. a second person, who may or may not be a practicing attorney, and who may advise the party but not otherwise participate in the proceedings.

Each party should inform the Grievance Chair of the person, if any, designated to fill each role. If the grievant chooses not to be accompanied by a practicing attorney, the respondent(s) also will have no practicing attorney present.

Representatives who are state employees and are acting within the scope of their employment are eligible for legal representation and indemnification under the Kansas Tort Claims Act. The representative is only expected to make a best effort and the outcome of the hearing cannot be appealed based on the actions/performance of the representative. While the representative can aid in preparing the presentation and can participate in the hearing, the primary responsibility for establishing the validity of the grievance or presenting a defense rests with the grievant and the respondent(s). Representatives will appropriately respect the confidential nature of information and materials that are part of a grievance hearing. Activities as a representative will be considered service to the university that must receive positive recognition and shall not jeopardize the person's yearly evaluation for performance, merit increases, or tenure/promotion.

2. Within five (5) work days from the notification of acceptance of grievance, the Grievance Chair shall designate a list of thirteen (13) eligible tenured faculty members or unclassified professionals, by random selection, from a list of eligible faculty or unclassified professionals. See Composition of Grievance Panel, Section II.F.

3. Within ten (10) work days following such notification of acceptance of grievance, each party shall submit to the Grievance Chair, with copies to the other party, the following materials:

- a. a list of all documents to be introduced;
- b. a preliminary list of witnesses to be called;
- c. a list of documents requested from the other party;
- d. the name and title of the non-lawyer representative, if one is to accompany the party to the hearing;
- e. the name of the practicing attorney, if a practicing attorney is to accompany the party to the hearing;
- f. whether the party will arrange for a court certified reporter to record the hearing (See Conduct of Grievance Hearings, II.J.1.a.); and

g. a list of dates for pre hearing availability to be within 20 work days of date of notification

In addition, the respondent(s) shall submit a written response to the allegations contained in the grievance.

4. Within fifteen (15) work days from the date of notification of acceptance of grievance, the Grievance Chair shall provide to each party:

- a. the list of names of potential panel members; and
- b. notification of the date(s), time(s), and place(s) of the hearing.

5. Within twenty (20) work days from the date of notification of acceptance of grievance, the Grievance Chair and both parties, and/or their respective representatives, shall meet to accomplish 3 goals:

- a. exchange, with copies to the Grievance Chair, an updated list of witnesses who may be called;
- b. assemble a common set of documents, consecutively numbered and with duplications eliminated. The documents shall include those requested in Section II.D.3 or a statement as to why the documents are not being provided (*e.g.*, they are irrelevant or nonexistent) and all other documents to be introduced during the hearing. The claim that documents are privileged or confidential shall not in itself be sufficient justification for withholding them from the other party. The validity of the basis for not producing a requested document will be judged by the Grievance Chair, whose ruling can be appealed to the panel at the time of the hearing;
- c. select the panel. From the list of thirteen (13) names, each party shall remove three names, one at a time, in alternating sequence, with the respondent striking the first name. From the remaining seven names, five shall be selected at random; the sixth and seventh shall serve as alternates. This process will be repeated if any of the seven panel members cannot serve and will continue until a panel of seven is selected. Panel members are confirmed by the Grievance Chair within 5 work days of parties meeting, and both parties are notified of the panel composition.

6. Within thirty (30) work days following notification of the acceptance of the grievance, the Grievance Chair shall convene the panel where the members shall select one member as their (nonvoting) presiding officer. At this meeting, the Grievance Chair shall inform the panel of the nature and grounds for the grievance, as stated in Jurisdiction sections 1 and 3 (*e.g.*, Nature of grievance: denial of tenure; Grounds: violation of University rules). Prior to the hearing, the Grievance Chair will convene a pre-hearing meeting of the panel to review the procedures that will take place during the hearing. This meeting may include the panel's legal counsel.

7. Within forty (40) work days from the date of notification of acceptance of the grievance by the Grievance Chair, the hearing shall begin, except as provided below.

8. If the pre-hearing grievance process is stopped because a faculty or unclassified professional entered into mediation and that mediation was unsuccessful, the grievance process may be resumed where it was interrupted. If a grievance panel had already been assembled but the hearing had not yet convened and the faculty or unclassified professional wishes to continue with the grievance process, the process will resume as provided in II.D.9 to allow the Grievance Chair to assemble a new panel if necessary and reschedule the hearing. If a new panel is assembled, legal preparation will occur as prescribed in II.H.

9. Within ten (10) work days of the grievance process resuming, the Grievance Chair shall provide to each party:

a. a list of the members of the new panel, the presiding officer, and two alternates;
and

b. notification of the date(s), time(s) and place(s) of the hearing.

10. In no more than twenty-five (25) work days from the date of the resumption of the grievance, the hearing shall begin.

E. Purpose of the Grievance Hearing Panel

A grievance hearing panel (hereafter referred to as a "panel") is convened for the purpose of hearing grievances that meet the criteria specified under Appendix G, Jurisdiction. The panel shall hear grievances to provide peer review for faculty and unclassified professionals of Kansas State University. Functions of each panel shall be to:

1. hear all evidence pertinent to the grievance provided in time periods specified;
2. make findings of fact;
3. decide whether the findings of fact substantiate the allegations of the grievance.
4. decide whether or not it believes university policy or generally accepted principles of academic conduct have been violated;

5. decide whether any of the violations are sufficiently serious that some corrective action(s) should take place, if one or more violations have occurred; and
6. recommend to the President of the University what, if any, action(s) should take place.

F. Composition of Grievance Hearing Panel

1. Each grievance shall be heard by a panel composed of four voting members, a presiding officer and two alternates, appointed by the Grievance Chair as specified in Section II.G. The presiding officer chairs the hearing but shall vote only to break a tie vote of the panel. During the course of a hearing, the Grievance Chair may replace a panel member with an alternate based on justification(s) provided by the presiding officer. The Grievance Chair and the panel alternates will attend the hearing.

2. For faculty grievances, none of the panel members shall be administrators or faculty with administrative tenths time. One of the five shall serve as the presiding officer. Faculty of the college in which the grievant member holds an appointment shall not be eligible with the exception of College of Arts and Sciences. In the instance of Arts and Sciences, faculty of the unit/department in which the faculty member holds an appointment shall not be eligible. Members of the panel shall hold appointments of at least nine-tenths time at or above the academic rank of the grievant. In addition, the composition of the panel shall reflect as nearly as possible the numerical balance of faculty in each of the remaining colleges.

3. A grievance brought by an unclassified professional who is not a faculty member, shall be reviewed in accordance with the provisions of Appendix G.II and the grievant shall have a choice of:

a. a panel of the composition specified, or

b. a panel selected from a separate pool that shall include all unclassified professionals who are not faculty members, except persons holding positions in the administrative unit in which the grievant or respondent(s) are appointed

G. Expectations and Procedures for Hearing Panel Service

As a component of their duties, eligible members of the university community are expected to serve on a grievance panel when called to do so. It is recognized that to fulfill this obligation may require reasonable adjustments in other responsibilities, which should be facilitated by their supervisor. Appropriate reasons for being excused from service (including conflict of interest and time commitments) will be determined by the Grievance

Chair, whose determination will be final. Service on a panel must receive positive recognition and shall not jeopardize the person's yearly evaluation for performance, merit increases, or promotion of the faculty member, or similarly job responsibilities, salary, and promotion of the unclassified professional. After the conclusion of the grievance hearing, a letter from the provost or appropriate vice president shall be sent to each unit/department head stating the need for participating panel members to be awarded appropriate merit for panel service following conclusion of their service. As state employees, when acting within the scope of their employment, individuals who serve on a panel are eligible for legal representation and indemnification under the Kansas Tort Claims Act.

H. Legal Preparation for Hearing Panel Service

1. Legal counsel. Each panel shall have the continuing assistance of legal counsel, invited by the Grievance Chair, who may provide information about the role of the members of the panel in the grievance proceeding, requirements of due process with respect to the panel's procedures, the mechanics of fact-finding, prejudicial actions/information, and liability of panel members. The administration will arrange for the attorney and will provide the attorney's contact information to the Grievance Chair. The panel's attorney shall be present during the grievance hearing, grievance panel deliberations and be available to the presiding officer for pre-hearing counsel.

2. Instruction for Hearing Panel and Participants. Prior to hearing panel service, members shall attend an educational preparation session, which is in the form of an online tutorial that was prepared by the University General Counsel prior to and independent of any grievance hearing. Topics for discussion shall include but may not be limited to requirements of due process and open meetings law, ethical responsibilities during and after the hearing, mechanics of fact-finding, and liability of panel members. Parties, witnesses, and other interested members of the university community may also access the on-line tutorial. The panel also meets with the panel's assigned legal counsel prior to the scheduled hearing to review any issues or questions members may have specific to the particulars of the grievance or the hearing process.

I. Policies for Scheduling and Participation in Grievance Hearings

1. The grievance hearing procedures are to respect the ordinary standards of fairness but are not intended to be equivalent to a judicial hearing. The goal is to provide the panel with the best opportunity to determine the truth and to make a recommendation to the President of the University as to the most appropriate resolution of the matters in dispute.

2. Hearings are generally scheduled to occur on one day. Extensions of not more than one day may be granted by the Grievance Chair, upon justification by the presiding officer, and should be scheduled; if possible, to take place not more than five (5) work days after the first day of the preceding panel meeting. In scheduling the hearing, the Grievance Chair will determine whether or not conflicts are sufficiently valid to warrant a rescheduling of the hearing. Otherwise, the individual who has a conflict is obliged to attend the hearing.

3. Members of the university community are expected to participate in the grievance process whenever called upon to do so.

J. Conduct and Procedures for Grievance Hearings

General

1. Supplementary procedures. The presiding officer, in consultation with the Grievance Chair, shall have the discretion to establish supplementary procedural rules and shall inform both parties of such rules in a timely manner. At the discretion of the presiding officer and grievance chair, a pre-hearing meeting of the parties and/or their non-lawyer representatives may be convened to consider specific issues related to the procedures to be followed. On issues of procedures, evidence, relevance, and all other items related to the hearing, the presiding officer, in consultation with the panel and, if so desired, legal counsel, is the final authority.

2. Compliance with KOMA. All grievance proceedings shall be conducted in accordance with the Kansas Open Meetings Act (KOMA). The hearing of the evidence shall be conducted in closed executive session, unless the grievant requests the hearing to be open. Deliberations of the panel shall be in closed session. Any vote or other decision-making action must occur in open session. (Refer to the University Committee Handbook for further information about KOMA.)

3. Grievance Record. It shall be the responsibility of the Grievance Chair to ensure that an accurate grievance record is made. The record shall include the written submissions of the parties, the report of the panel, and response of the President of the University. In addition, either party may arrange for a court certified reporter to record the hearing at the party's expense. The party must notify the Grievance Chair in accordance with the Pre-Hearing Activities (II.D.3).

4. Venue, equipment, and supplies. At the direction of the Grievance Chair, the university will provide suitable space, associated equipment, supplies, and refreshments necessary to meet the reasonable needs of the panel and the parties involved.

5. Legal counsel for panel. During the hearing, the presiding officer and/or panel may recess to privately discuss specific issues related to the hearing and to confer with its counsel, specified in Section H.1. The panel is not to rely on its legal counsel for judgment of fact.

6. Assistance for presiding officer. The presiding officer may call upon the Grievance Chair or the Chair's designee to assist with logistical mechanics of the hearing.

7. Rules of Evidence. Because the hearing is a peer review, the panel shall not be bound by strict legal rules of evidence; it may admit any evidence it considers pertinent to the grievance, and may exclude evidence it considers not pertinent.

Process

1. The presiding officer shall call the hearing to order, state the nature of the grievance, and review the rules (including those appropriate for an open or closed hearing).
2. The grievant and the respondent(s), in that order, will make short opening statements not to exceed twenty (20) minutes. The panel members will then have an opportunity to ask questions of either party in order to clarify specific issues before presentation of evidence and testimony of witnesses.
3. The grievant shall present evidence, which may include testimony by supporting witnesses, documents, and/or other relevant material. The respondent(s) may:
 - a. cross-examine each witness following his or her testimony; and
 - b. object to any testimony on grounds it is irrelevant or repetitive.

Members of the panel will have the opportunity to ask questions of each witness after each cross-examination.

4. The respondent(s) shall present evidence, which may include testimony by supporting witnesses, documents, and/or other relevant material. The grievant may:
 - a. cross-examine each witness following the testimony; and
 - b. object to any testimony on grounds that it is irrelevant or repetitive.

Members of the panel will have the opportunity to ask questions of each witness after each cross-examination.

5. The grievant and the respondent(s), in that order, may then present evidence in rebuttal of previously introduced evidence. The other party may object to any rebuttal testimony on the ground(s) that it is a new subject, is irrelevant, or is merely repetitive. Members of the panel will have the opportunity to ask relevant questions of each rebuttal witness.

6. Witnesses shall not be present at the hearing until called to testify and then shall be excused, unless either party or the panel requests that they remain available. Only witnesses who have been excused may remain in the audience and then only when it is an open hearing. Witnesses who are also parties may be present during the entire hearing.

7. Members of the panel may question the parties and/or recall witnesses for questioning. At any time during or after the close of the hearing, the presiding officer after consultation with the panel may request from the grievant or respondent(s) the production of any other information the panel deems relevant. Refusal to comply with this request and the reason(s) will be noted in the panel's report. If the panel acquires such additional information, the presiding officer will reopen the hearing to afford all parties an opportunity to respond with comments or additional evidence. The panel's report will be based on the closing date of the reopened hearing.

8. The panel's deliberations are confidential and closed to all persons including the alternates and the grievance chair. Panel members are not permitted to individually contact persons involved in the grievance or conduct any form of fact-finding or investigation outside the grievance hearing. Furthermore, panel members shall not discuss case-specific aspects of a grievance hearing or panel deliberations outside of the grievance hearing.

9. The Faculty Senate President or designee, on behalf of the Faculty Senate, will provide support throughout the process to the Grievance Chair. Support will be provided as needed and appropriate and in compliance with confidentiality and the Kansas Open Meetings Act.

K. Findings, Recommendations, and Reporting Responsibilities

1. The decision of the panel shall be based only upon the testimony and other evidence presented at the hearing. The grievant shall bear the burden of demonstrating, by a preponderance of the evidence, that relief should be granted. The report of the panel shall include:

- a. an evaluation of the evidence and findings of fact;
- b. a description of the recommended specific relief or course of action that should be taken; and
- c. reasons supporting the decision.

The panel may consult with its counsel to obtain recommendations for appropriate and legally sanctioned remedies. Any minority statement(s) may be appended to the report.

2. The panel shall have discretion to recommend that the relief sought should be granted or denied, or that some other form of resolution should be employed as long as such relief is consistent with policies set forth in the University Handbook. In the event of a finding that university policy has been violated, the panel may recommend that a brief statement of the finding become a part of the offending party's personnel file(s). Any disciplinary action that may be suggested will be in accordance with university policies and procedures, and depending on the severity of the offense, such sanctions may include, but are not limited to, a letter of reprimand, a formal warning, suspension, demotion, or termination of employment.

3. Within twenty-one (21) work days after the completion of the hearing, the presiding officer shall present the report to the Grievance Chair, who shall within the following five (5) work days, send copies to:

- a. the President of the University;
- b. both parties; and
- c. the President of Faculty Senate.

The findings of the hearing panel are final and cannot be appealed.

4. The President of the University shall respond to the recommendations of the panel within ten (10) work days of receiving the report. Copies of the response and notification of subsequent actions taken should be sent to the Grievance Chair, the parties of the grievance, and the president of the faculty senate. If confidentiality of the nature of the implementation of the President of the University's decision is part of the disposition and is agreed to by both parties, the President of Faculty Senate shall receive notice only of the fact that disposition has taken place and that it is confidential.

5. The complete record, including all evidence presented and all recordings and/or transcripts that have been made, shall be retained in the files of the Faculty Senate office for at least three years following the conclusion of the grievance hearing. Each party may, at its own expense, copy the record or any part thereof at a place and time to be determined by the President of Faculty Senate.

6. Without regard to the panel's finding or the response from the President of the University, the administration will make every effort to ensure that no one participating in the grievance hearing is subjected to retaliation.

7. At the first meeting of Faculty Senate each fall semester, the Grievance Chair who served the preceding year shall report:

- a. the number of grievances heard during the preceding year;
- b. the nature of the grievances;
- c. other information about individual grievances considered to be a concern of Faculty Senate; and
- d. recommendations for modification of relevant policies and procedures.