

ATTACHMENT 2

Faculty Affairs Committee of Faculty Senate University Handbook Appendix G: Grievance Policy and Procedures Summary Recommendations

Frank Spikes, Past Faculty Senate President
Betsy Cauble, Past Faculty Affairs Committee Chair
February 23, 2009

Introduction

Beginning with the 2005 academic year, the Faculty Affairs Committee of Faculty Senate began reviewing University Handbook Appendix G: Grievance Policy and Procedures. This activity was undertaken because a number of issues regarding difficulties with the policy were raised with Faculty Senate. During the three year review process, members of Faculty Affairs were able to interview university personnel who participated in the grievance process in a variety of roles. These personnel included past and current provosts, associate provosts, deans and department heads, hearing panel members, grievants, faculty advocates, witnesses in hearings, general grievance board chairs, ombudspersons, and the Faculty Senate secretary. In addition, Faculty Affairs committee members sat in on an open grievance hearing, which enabled us to see first hand many of the issues that were brought to our attention through the interviews. This process resulted in a substantial reworking of Appendix G. A summary of our substantial recommendations is presented to accompany the reworked Appendix G.

University Handbook, Appendix G

- Problem: Appendix G is difficult to follow due to changes in the policy and procedure that have been enacted at different times. In order to enhance readability and understanding of the document, we recommend the following:
 - Reorganized to reflect chronological order of the process. Begins with Administrative Appeals
 - Include a summary time-line
 - Definitions of terms included
 - Include Open Meetings Act Language
 - Language Changes
 - General Grievance Board Policy becomes General Grievance Policy
 - General Grievance Board Chair becomes General Grievance Chair
 - Hearing Panel is consistently used for panel that hears grievance.
 - Hearing Panel Chair becomes Presiding Officer
 - All Time Designations are Work Day

Administrative Appeals

- Problem: There is some confusion as to preparation and process for administrative appeals. Grievants do not understand that administrative appeals are the first step in the grievance process and that what occurs during an administrative appeal will impact the grievance hearing should a hearing become necessary. In order to bring clarity and provide support for the grievant, we recommend the following:

- A complainant may designate one individual to serve as a representative for the purposes of preparation of an appeal. This person may be someone other than the ombudsperson.
- The representative may accompany the complainant to meetings with administration. An ombudsperson may also accompany the complainant.
- The contents of the administrative appeal are articulated.

Time Frames for Filing an Appeal and Requesting a Grievance Hearing

- Problem: The current timeline for requesting a grievance hearing is within one year of the latest incident or the administrative action or inaction at issue. This deadline is confusing and open to interpretation about whether or not the first step of the appeal process is included as part of the year. Further, grievants who are no longer employees of the university may be requesting grievance hearings, which creates a variety of difficult legal situations. To correct this situation while providing faculty and unclassified staff adequate time to contemplate a decision to take action, while at the same time allowing the grievance process to conclude in a reasonable period of time, we recommend the following:
 - Deadline to file an appeal is 30 work days
 - Deadline to request a grievance hearing is 30 work days
 - Stopping the clock for mediation remains
 - Provisions for extending the deadlines for requesting a grievance hearing are included

General Grievance Board (GGB)

- Problem: The GGB presents several problems as currently configured. The first is that we are having increasingly more difficulty seating a grievance hearing panel. Many faculty refuse service on a panel due to routine teaching assignment or inconvenience. Secondly, due to the nature of the GGB a full 2/3rds of the members may not have had training on Appendix G policy and procedures for one or two years if at all. In order to improve the numbers of faculty who will agree to serve on a panel and to assure all hearing panel members are appropriately trained, we recommend the following:
 - Eliminate GGB
 - Select Hearing Panels in similar manner to Appendix M
 - All current tenured faculty are eligible for selection to a hearing panel
 - Retain General Grievance Chair
 - Reviews and determines eligibility of complaints for grievance hearings
 - Term is three years
 - Selected from those who have experience with the university's dispute resolution process
 - Clarify University's expectations for service on Appendix G hearing panels...much like Appendix M language
 - Training for Hearing Panel Members
 - University Attorneys in conjunction with the Director of Academic Personnel determine information and procedure for the training and will prepare a standardized online program would be the most efficient.
 - Occurs immediately before grievance hearing is held
 - May include an University Attorney or staff member and past members and chair of previous hearing panels
 - All parties involved in grievance receive same training

Grievant Representatives

- Problem: There has been significant confusion regarding the role of the “faculty advocate” and the number of advocates a grievant may have. In order to clarify the role and activities of the faculty advocate, we recommend the following:
 - Faculty Advocate becomes Representative (Note: This language is used for both faculty and unclassified staff grievances.)
 - Grievants may use whomever they wish for support and consultation during this process. However, they must designate one individual as the official representative who may speak during the Grievance Hearing. At a closed hearing, grievants may have one additional support individual (may be an attorney) who may not speak. At an open hearing, anyone may attend; the designated representative may speak on behalf of the grievant.

Availability of an Attorney for the Hearing Panel and General Grievance Chair

- Hearing panel members and presiding officers report that on occasion attorneys for the panel have not been present for the hearing. As a result, it is sometimes difficult to obtain timely advice regarding an issue, which creates unnecessary delays during the grievance hearing. To alleviate this problem, the following is recommended:
 - An attorney is available to advise the panel chair and the panel during the entire Grievance Process.
 - Administration will make arrangements to have an attorney available
 - Is present for hearing
 - Role of the Attorney
 - Advises General Grievance Chair
 - Assists with Training for Hearing Panels and all other grievance participants
 - Advises Hearing Panel

A Written Record of the Hearing

- Problem: Currently an audio recording and notes are kept of hearings. This is inadequate and unwieldy. The audio tape is difficult to hear; speakers are hard to identify; and, it requires an unreasonable amount of staff time to produce. The notes produced by an appointed secretary are inadequate to certify the accuracy of the audio tape. This creates serious problems in the event of subsequent litigation. To correct this situation, we recommend the following:
 - Written record will consist of written submissions of all parties, the report of the panel, and the president’s response
 - Either party may request a certified Court Reporter at requesting party’s expense.

Management and Staffing of Grievance Hearings

- Problem: During the preparation and process of a grievance hearing, there are a number of management issues that are not articulated in Appendix G. As a result, it is often necessary to negotiate between the Faculty Senate Office and the Provost Office who should manage a certain aspect of the process. To further clarify all management roles, we recommend the following:
 - President of Faculty Senate or designee present to assist

- Work with administration to include the set of procedures for the management of grievance hearings on the web page
- Some suggested changes in University Handbook also reflect these changes
- Administration and Faculty Affairs work together to assure web page time lines and directions for Administrative Appeals and Grievance Hearings are in compliance with University Handbook Appendix G.