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UHCL ACADEMIC AFFAIRS POLICY (UAAP)

SECTION: ACADEMIC AFFAIRS
AREA: GENERAL

UAAP Number: 06.A.17

SUBJECT: FACULTY GRIEVANCE

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I. PURPOSE

~~The Faculty Grievance Policy is designed to provide due process for faculty members, as defined in the UHCL Faculty Handbook, due process. This policy will apply anytime a grievance is filed by a UHCL faculty member against members of the faculty, staff, or administration where no other UHCL policy is appropriate. Faculty are encouraged to attempt all informal avenues of resolving disputes before pursuing a formal grievance. The University of Houston – Clear Lake requires that all faculty members be treated fairly and consistently in all matters related to their employment. The university provides faculty with the right to express their grievances through informal and formal avenues. Retaliation in any form against any faculty member for presenting a grievance is prohibited and may be grieved.~~

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II. POLICY

~~2.1 The University of Houston – Clear Lake (“University”) encourages fair, efficient and equitable solutions for problems or disputes arising out of the employment relationship. The University strongly recommends that individuals experiencing problems attempt to resolve them informally before exercising the grievance process. Faculty members are strongly encouraged to discuss concerns openly with the individual with whom the problem exists before proceeding with this process.~~

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~~1.1 The Faculty Grievance Policy is designed to provide due process for faculty members. This policy will apply anytime a grievance is filed by a UHCL faculty member against members of the faculty, staff, or administration where no other UHCL policy is appropriate. Faculty are encouraged to attempt all informal avenues of resolving disputes before pursuing a formal grievance.~~

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~~2.2 Although grievances can concern any action affecting a faculty member, they might include promotion and tenure decisions, dismissal of untenured faculty, post-tenure~~

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review, work assignments, violations of academic freedom, merit raises, and committee assignments. Grievances may also be for violations of University policies, ~~c~~College ~~b~~By-laws or other policies as appropriate. Some actions are not grievable, often because they have their own appeal process. These include:

2.2.1 Dismissal for cause (link to dismissal policy)

2.2.2 Promotion and tenure (link to Promotion and Tenure policy)

2.2.3 Appealing grievance outcomes. While it is possible to file a grievance for a clear violation of the grievance process, grievances will not be accepted against an individual for their recommendation or decision in a grievance.

For guidance regarding grievances specifically relating to matters of promotion and tenure please see Section 15.4 of this policy. The grievance process may not be used for appealing dismissal for cause; see Dismissal Policy (policy number). A grievance may also not be filed regarding the decision in a grievance, but only for a clear violation of the grievance process.

No faculty member will be penalized or disciplined for filing a grievance or for aiding another faculty member in the presentation of a grievance. Acts or threats of retaliation in response to grievances may subject the person retaliating to disciplinary action, up to and including termination. Any acts or threats of retaliation in response to grievances may result in disciplinary action, up to and including termination.

Persons filing grievances with reckless disregard for the truth or in willful ignorance of the facts are excluded from protection and may be subjected to disciplinary action, up to and including termination.

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II. DEFINITIONS

2.1 Respondent—The individual against whom the grievance is filed.

2.2 Grievant—The individual initiating the grievance.

Faculty—Includes tenure-track and tenured faculty and those appointed to non-tenure track academic positions. The positions are defined in the Faculty Handbook.

2.3 University Grievance Panel—A panel consisting of 10 tenured, full-time faculty members from each college who are eligible for election to the Faculty Senate. At least two of these members per college should hold the rank of (full) Professor. This panel serves as the basis for development of the Grievance Committee (see 2.5).

2.3 Grievance Committee—a committee of five people, consisting of three voting members (to be selected from the University Grievance Panel from members not from the college of the grievant or respondent) and two non-voting representatives (as defined in 2.6).

Commented [DN1]: Are these the only 3 instances when an action is not grievable?

Commented [CS2R1]: As soon as we get a Research Misconduct policy that will go on this list. Also, things like Title IX violations go through that office instead of being grievances.

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Commented [SC3]: We're going to move the P&T appeals section to the promotion and tenure policy at the same time. Not really a substantive change, but housekeeping.

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Commented [DN4]: The stakes are really high here. Can we clarify who is making this determination? Provost?

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The two other members, known as representatives, must be full-time faculty who are eligible for election to the Faculty Senate (See 7.1).

2.4 Representative—Representatives are appointed; one named by the grievant, a second member named by the respondent. These two members will serve as representatives of the parties involved during the grievance process. (See 7.2) Representatives must be full-time faculty members who are eligible for Faculty Senate.

—Working day—a day in which classes are in session at UHCL and all offices are open.

2.5 Substitutions—If the provost is a respondent, the president of the university will assume the responsibilities assigned to the provost in this Grievance Policy. In such an instance, the university president shall not delegate responsibilities and role within the grievance process to an individual below the organizational level of the respondent. Likewise, if the Faculty Senate president is the grievant or respondent, then the Faculty Senate past president takes the place of the faculty senate president in the grievance process.

III. SELECTION OF THE UNIVERSITY GRIEVANCE PANEL PROCEDURE

3.1 ~~The University Grievance Panel shall consist of 10 tenured faculty elected from each college. The members must be full-time faculty members who are eligible for election to the Faculty Senate. The ten members of the panel chosen from each college shall be elected by those full-time faculty members of the college who are eligible for election to the Faculty Senate. Each college will elect five representatives every spring semester to serve a two-year term starting September 1.~~ Informal Resolution - The University encourages communication between faculty members and administrators to resolve workplace concerns promptly. If an agreement is not reached through informal efforts to resolve workplace concerns, the faculty member may pursue the grievance procedure outlined below.

3.2 Formal Grievance

3.2.1 To initiate a formal grievance, the faculty member ("grievant") presents shall present the grievance in writing to the appropriate administrator within 60? 90? 120? fourteen calendar days from the date of the action taken by the other party that is the subject of the grievance ("respondent"). A faculty member ("grievant") initiates a formal grievance by submitting a written complaint to the appropriate administrator no later than 60? 90? 120? calendar days after the action by the other party ("respondent") that is the subject of the grievance. Therefore, attempts at informal resolution must be complete by this deadline. For grievances against administrators, the "date of the action" will often be the date of notification of the action. For example, a grievance regarding an annual evaluation score should be filed within the time limit starting from

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the date the faculty member receives their copy of the scores. Relevant documents or any other information pertinent to the matter should also be provided. Once the grievance has been submitted in writing, it cannot be changed.

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3.2.2 Grievances concerning other faculty should be directed to the respondent's department chair of the respondent that faculty member; grievances against a department chair or other sub-dean college academic administrator should be directed to the respondent's respective dean; grievances concerning a dean or other university-level academic administrator should be directed to the Provost. Grievances concerning the Provost should be directed to the President or designee. In all cases, the faculty member filing the grievance must also send a copy to the Provost's office. The Provost's office will be responsible for notifying the dean's office of the respective college, handling requests for extensions, and maintaining official records related to the grievance. If a faculty member files a grievance at a level higher than the one specified in this policy, the grievance will be returned to the appropriate level for review.

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Commented [JL6]: What happens if an administrator or respondent with whom a grievance has been filed or will be filed has left the institution? Will the grievant be out of luck?

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3.2.3 The administrator initially in receipt of the grievance ("administrator") will forward a copy of the grievance to the respondent party against whom the grievance is brought ("respondent"). The respondent must respond in writing and submit documents or materials in support of his or her position. The respondent will respond to the grievance within five business seven calendar days of receipt of the copy of the grievance from the administrator. The administrator will respond to the grievance within 10 business 14 calendar days of receipt of the reply from the respondent. grievance of the response from the party against whom the grievance is brought.

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Commented [DN7]: We need a timeline for this turnaround, esp. given that failure to follow timeline results in automatic appeal. For consistency with rest of policy, I'd recommend 5 business days.

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Commented [DN8]: Can the respondent not have same amount of time as the administrator? 5 days seems fast to me, especially if the issue is something complicated

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3.2.3.2.4 Failure to respond to a grievance within the time limit results in an automatic appeal of the grievance to the next administrative level. Calculation of calendar days does not include holidays indicated on the published University calendar. By April 15 of each year, the Faculty Senate president will issue a confidential ballot to all the full-time faculty of each college who are eligible to be elected to the Faculty Senate. The ballot language shall include a statement on the importance of diverse representation on the Grievance Panel. Faculty members receiving confidential ballots will vote for up to 10 faculty members of their college to serve on the University Grievance Panel. These ballots will be submitted to the Faculty Senate president for tabulation.

Commented [DN9]: I'm unclear about how this part of the process is in compliance with SB37, §51.943.b if the grievance is going to a department chair. Presumably, the grievance could end here, in which case, the chair would be "involved in decision-making regarding review of a faculty grievance," power the law reserves for "Only the president or chief executive officer or provost of an institution of higher education, university system administration, or the president's or chief executive officer's, provost's, or administration's designee."

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3.3 Appeals If the grievance is not resolved to the satisfaction of the grievant (or also respondent, in faculty vs. faculty grievances) faculty member by the administrator with whom it was filed or was not responded to in accordance with the timelines outlined in this policy, the faculty member (or either faculty member in faculty vs. faculty

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grievances) ~~may~~ appeal the grievance to the appropriate dean or designee, and then to the Provost or designee;

3.3.1 Faculty Grievance Committee – Grievances that are appealed to the Provost level or where the Provost is the respondent may be submitted to the Faculty Grievance Committee (“Committee”) for an inquiry at the request of the grievant, respondent, or Provost within five business days of receipt of notification of the Dean’s decision or of submission if the Provost is the respondent.

~~Grievances that are appealed to the Dean level or where the Dean is the respondent may be submitted to the Faculty Grievance Committee (“Committee”) for an inquiry at the request of the grievant or of the Dean or designee. The Dean or grievant may make a submission before the Dean’s decision on the grievance, or the grievant may make a submission within seven calendar days of receipt of notification of the Dean’s decision. If the Provost is the respondent, the grievant may elect to submit to the Faculty Grievance Committee immediately. For any grievance, a Grievance Committee will only be used once.~~

3.3.2 Grievance Pool – Each college in the spring semester elects four faculty to serve in the grievance pool. The sixteen faculty will be randomly ordered by the Faculty Council Chair of Faculty Affairs by August 1 to form the “roster order” for that academic year.

3.3.3 Timeline - Appeals must be filed with the appropriate administrator within ~~five business~~ ~~seven calendar~~ days of receipt by the faculty member of the lower-level decision. Appeals must be responded to in accordance with the following time limits:

~~Department chairs and deans shall respond within ten business~~ ~~fourteen calendar~~ days following receipt of the appeal and the Provost shall respond within ~~2030 calendar-business~~ days of receipt of the appeal (unless the appeal is forwarded to the Committee, see Section 3.4 below).

~~Unless the Provost is the respondent, the decision of the Provost is final. If the Provost is the respondent, the decision of the President is final.~~

~~3.3 Faculty members receiving the highest number of votes (the one full professor with the highest votes, then the highest 4 of the remaining faculty on the ballot) will be asked by the Faculty Senate president to serve on the University Grievance Panel. If any of those elected is unable or unwilling to serve, the faculty member receiving the next highest number of votes will be asked to serve.~~

3.4 Faculty Grievance Committee (“Committee”) Role and Structure

3.4.1 ~~Should a member become unable to serve during their term the faculty member receiving the next highest number of votes in the latest election~~

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Commented [JL11]: Is this the first time FC is used; if so, it should be written out. I didn't want to correct it as I may have missed it written out earlier in the document.

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~~shall be asked to serve.~~**Role** - The Committee is an ad hoc advisory committee appointed by the Faculty Council ("FC") from the Grievance Pool. ~~The Provost will notify the chair of the FC Faculty Affairs Committee, copying the FC presiding officer, to constitute a Committee and provide sufficient information, such as the college and/or department of the grievant, to avoid conflicts of interest. The FC will constitute this duly appointed Committee with the next nine initial members from the Grievance Pool within five business seven calendar days of the request for a Committee from the Provost. If any member of the Committee needs to recuse themselves for any reason, they may do so and be replaced by the next person on the Committee roster. The respondent and grievant will select two names for removal within five business seven calendar days. If the grievant or respondent do not respond, or select the same member for removal, the chair of the FC Faculty Affairs Committee will select, in roster order, the top five remaining members remove members as necessary to serve as get the Committee to five members. This Committee will consider the appeal and provide a written recommendation to the grievant, respondent, and Provost .~~

If the Provost is the respondent, the President or designee assumes all responsibilities of the Provost above.

3.4.2 Structure – The Committee will choose a chair from among its members who will be responsible for scheduling a time and place for the inquiry. Such inquiry must take place no later than 60 calendar days from the date on which the FC was notified of the need desire for Committee review. The chair will also request the grievant and respondent parties to the grievance submit written statements of their positions with regard to the grievance, and provide the names of persons with relevant information and copies of relevant documents concerning the grievance to the chair at least five business seven calendar days before the inquiry. The chair will also request all documents from lower levels of review of the grievance. The chair will ensure relevant documents are identified and distributed to Committee members and notify other persons with information relevant to the inquiry of the need to appear at the inquiry. The Committee will receive administrative support from the Provost Office.

3.4.3 Inquiry - During the inquiry, members of the Committee may ask questions of the parties and of other persons with information relevant to the inquiry. The parties will not be allowed to question witnesses except at the discretion of the chair.

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All interactions at the inquiry between the Committee, parties to the grievance, and other persons questioned at the inquiry will be audio recorded.

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After the inquiry, the Committee will deliberate and provide a written recommendation to the grievant, respondent, and Provost within 10 business days from the date of the first inquiry meeting. If the Committee was called before the decision of the Dean or designee, the recommendation will also be sent to the Dean. All materials and records concerning the grievance inquiry will be forwarded to the Provost with the recommendation. The Provost or Dean will respond to the grievant and respondent within five business days of receipt of the recommendation from the Committee.

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3.4 If the Provost is the respondent, the President or designee assumes all responsibilities of the Provost above.

3.5 Records - Upon completion of the grievance process, all recordings, documents and materials related to the formal grievance will be forwarded to the Provost for storage. Upon completion of the election, the president of the Faculty Senate will provide the provost with the names of the members selected to serve on the University Grievance Panel. The provost will in turn notify the deans of the colleges and the faculty members elected to the Grievance Panel.

IV. INFORMAL RESOLUTION

4.1 An attempt to settle grievances informally should be made through discussions between the grievant and the respondent(s). This informal process may include discussions or mediation with appropriate persons who are not parties to the grievance.

4.2 If informal discussion does not resolve the grievance, the grievant may petition for a formal hearing of the grievance by a University Grievance Committee. Informal resolution may still take place at any point in the grievance process.

V. FORMAL RESOLUTION

5.1 If informal resolution of the grievance is not possible, the process for formal resolution of the grievance can be initiated as provided in section 6. In such cases, after a formal notification to the provost's office by the grievant, a Grievance Committee will be selected as stated in 7.3 of this policy. The Grievance Committee will hold hearings if needed and make a recommendation to the provost. The provost's recommendation and the Grievance Committee's recommendation will be sent to the president of the university for final resolution of the grievance.

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VI. GRIEVANCE PROCEDURE

6.1 The written grievance must be submitted to the provost's office within 120 calendar days of the most recent event(s) related to the grievance. Pursuit of informal resolution constitutes continuance of the event(s) related to the grievance.

The procedure begins when the grievant delivers in person, by email, or by U.S. Mail certified, return receipt requested, a written grievance to the Office of the Provost.

Receipt of the grievance must be acknowledged in writing and dated by the Office of the Provost.

In his/her written grievance to the Office of the Provost, the faculty member shall provide their name and position and the name and position of all respondents, describe in less than 1,500 words the issues and actions that have resulted in the grievance, state in less than 500 words the outcome hoped for from the grievance, and submit any factual material pertinent to his/her case. No more than three unique grievable items may be included in a single individual grievance. While the scope of the initial grievance is established in the original written grievance, additional and supporting evidence related to the written appeal or grievance can be added at a later date in the process.

By filing, this and any other communication or documentation becomes a part of the grievance evidence. This evidence must be made immediately available to all parties including the grievant, the respondent, the representatives, and the Grievance Committee. The faculty member consents to the Grievance Committee having access to those materials and documents it deems relevant to the proceedings. The grievant and/or respondent(s) may voluntarily recuse themselves from having access to confidential materials and information should it allow for a more thorough review of the claim(s).

6.2 In accordance with the established timeline, the provost must forward a copy of the grievance to the respondent who must acknowledge receipt of the grievance in writing by signing and dating the acknowledgement.

6.3 In accordance with the established timeline, the respondent must submit to the provost a written and dated response to the grievance.

6.4 In accordance with the established timeline, the provost will instruct the grievant and the respondent to select their representatives to the Grievance Committee. If the provost should fail to instruct the grievant or the respondent within ten working days, the president of the Faculty Senate shall within three working days act for the provost in forwarding the grievance and instructing both parties to select their grievance committee representatives. They must notify the provost of their selection within ten working days. These representatives will observe the selection of the other members of the Grievance Committee as described in section 7.3 of this policy. The provost shall not

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be involved in the formulation of the final recommendation of the Grievance Committee.

6.5 If for any reason, either or both parties to the grievance do not select a representative within ten working days of notification by the provost, the provost will notify the president of the Faculty Senate who will select either or both of the representatives within an additional ten working days.

6.6 In no event shall any member of the Grievance Committee be related (including by marriage) to the grievant or the respondent. In the case where the grievance involves a decision regarding tenure or promotion, in no event shall any member of the Grievance Committee have also been a member of the grievant's peer committee or otherwise involved in the decision.

VII. — GRIEVANCE COMMITTEE

7.1 The University Grievance Panel will serve as a pool for the selection of three voting members of the Grievance Committee. The Grievance Committee hears the particular grievance and makes a recommendation to the provost. The Grievance Committee is a non-adversarial body designed to make a fair conclusion based on a thorough investigation of the evidence.

7.2 The Representatives

7.2.1 — One representative will be named by the grievant, a second member by the respondent. These two members will be designated as representatives of the parties involved in the grievance. The representatives are non-voting members of the Grievance Committee. Both of these representatives must be full-time faculty members who are eligible for election to the Faculty Senate. Neither representative is required to be a member of the University Grievance Panel.

7.2.2 — Where multiple grievants file a grievance or where multiple respondents named, the group of grievants or the group of respondents must select a single mutually acceptable representative. If the individuals cannot agree, the provost may decide to separate the grievance into multiple grievances.

7.2.3 — During the grievance process, the representative should act as the advocate of their designated party. The representative should be invited to all meetings and the hearing related to the grievance.

7.3 Selection of the Grievance Committee

7.3.1 — In accordance with the timeline, the provost or provost designee randomly selects three names from the members from the University Grievance Panel

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who are not from the same college as the grievant or respondent(s) and not actively serving on another grievance to serve as the members of the Grievance Committee, in the presence of the two designated representatives. Once three names have been drawn, each representative may strike one name from the Grievance Committee list, if desired. If a name is struck, another name will be randomly selected to replace the stricken member(s). If for any reason one of the designated three Grievance Committee members decline to serve, the same process above will be used to randomly select a new member. If the provost and the faculty senate president both determine that a member of the grievance committee has a conflict of interest with the grievant or respondent(s), that member may be removed by the provost and replaced by the same process above to randomly select a new member. Representatives only have one allowed strike throughout the entire process.

~~7.3.2 Conflicts of interest should be determined and resolved by the faculty senate president and provost before the grievance committee first meets.~~

~~7.4 Failure of Representatives to Participate~~

~~7.4.1 If, for any reason or at any time, either representative cannot participate in the grievance procedure, or there is a need for the representative to be replaced, this representative will no longer be considered part of the grievance committee. The party without a representative shall choose a replacement representative within ten working days of notification of the representative's failure to participate.~~

~~7.4.2 If the representative departs mid-process the replacement will follow the selection procedures in section 7.2 of this policy. The representative replacement may not be selected from the sitting Committee Members.~~

~~7.4.3 If, for any reason or at any time, one of the three selected committee members is unable to participate, the replacement will follow the selection procedures in section 7.3 of this policy within the established timeline.~~

~~VIII. GRIEVANCE COMMITTEE GENERAL PROCEDURES~~

~~The Grievance Committee shall determine its own general procedures, subject to the restrictions stated in this Section and Section 9.~~

~~8.1 The two representatives will call the initial meeting where the grievance committee will select the chair. The committee shall select its own chair, but neither the representative of the grievant nor the representative of the respondent(s) shall serve as chair.~~

~~8.2 The grievant and the respondent will be asked by the chair of the Grievance Committee to submit all documents or exhibits that are to be considered by the grievance~~

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committee. Through the chairperson, the committee can request additional documents as a fact-finding effort that it believes are pertinent to the grievance.

8.3 If the committee decides that it is warranted, the committee will select a date, time and location for a formal hearing concerning the grievance. The chair of the committee will notify the provost, the grievant, and the respondent(s) giving them at least ten working days' notice before the scheduled hearing.

8.4 Any formal hearing must take place within 60 working days of the committee being selected. If no formal hearing is conducted, the final recommendation is due within 90 working days of the committee being selected. If a delay is necessary, the committee must inform the grievant and the respondent, in writing, of the reason for the delay and set a new deadline for the report.

8.5 After the hearing and due deliberation, the committee will make its recommendation on the grievance, and the reasons for it, in writing, to the provost or president as is most appropriate. This shall be done even if the recommendation of the committee is to take no action.

IX. GRIEVANCE COMMITTEE HEARING AND RECOMMENDATION TO THE PROVOST

The grievance hearing is not a formal legal proceeding. Either party may be assisted by other faculty members or legal counsel in preparing for the hearing. However, these other faculty members or legal counsel will not be allowed to be present at these proceedings unless they are requested to participate by the chair of the Grievance Committee.

The chair of the Grievance Committee will instruct the grievant and the respondent to submit all documents to be considered by the committee. The committee must receive these documents for consideration no later than five working days prior to the hearing.

The grievant and respondent will identify all witnesses that may be called upon by the committee to testify at the hearing and what relevant facts they may be able to contribute. The grievance committee may also call upon additional witnesses it feels will be pertinent to the grievance. The Chair of the Grievance Committee will be responsible for contacting these individuals to ascertain their willingness to participate in the hearing. No retaliatory action may be taken against any individual who chooses to appear or not to appear.

9.1 Evidence and Recording. The formal hearing will be recorded. The only persons who will have access to the recordings are the committee members, the grievant, the respondent(s), the provost, and the president of the university. The grievance file will be retained in the provost's office for three years following the completion of the grievance proceedings.

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9.2 Executive Session. The Grievance Committee shall discuss and determine its recommendation in executive session. This executive session is for voting members of the committee only; the representatives may not be in attendance.

9.3 Informal Resolution. An informal resolution recommended by the Grievance Committee to the grievance remains possible until the Grievance Committee makes its final report. In part, the role of the representatives is to make possible continued mediation between the grievant and the respondent(s).

9.4 Grievance Committee Recommendation. The committee must make its recommendation to the provost, with copies to the grievant and the respondent by both campus and electronic mail, within 30 working days after the hearing is completed or 90 working days after representatives are chosen. The recommendation of the committee need not be unanimous, and members of both the majority and minority must issue a report of their recommendations.

9.5 If the committee cannot reach a unanimous decision, its division and the reasons for it must be expressed either in the report or in separate concurring or dissenting statements by individual members. All committee members should be aware of all concurring or dissenting statements before they are submitted. Once submitted with the main report to the provost, the grievant and respondent(s) receive copies of all concurring or dissenting statements.

9.6 If a delay is necessary, the committee must inform the grievant and respondent, in writing, of the reason for the delay and set a new deadline for the report

X. — PROVOST ACTIONS

10.1 Grievance Committee's recommendation must be acknowledged in writing and dated by the provost. The provost must act on the grievance committee recommendation within fifteen working days of receipt of the Grievance Committee's recommendation.

10.2 The provost must provide a written response to the Grievance Committee's recommendation, either agreeing or disagreeing with it. If the provost disagrees with the Grievance Committee's recommendation, the provost must make a full explanation in writing, with reasons for the decision, and distribute it to the grievant, the respondent and the Grievance Committee. In either case, the provost's written response and the Grievance Committee's report will be distributed to the grievant, the respondent(s) and the Grievance Committee.

10.3 Within five to fifteen working days the provost will forward to the president of the university a copy of the Grievance Committee's recommendations along with the provost's written recommendation. The president must have the recommendation of both the provost and the Grievance Committee before making a decision. If the provost

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~~should fail to meet the deadline for forwarding the Grievance Committee's recommendations to the president, or fail to make a recommendation of their own, the Grievance Committee's report automatically goes to the president.~~

XI. — PRESIDENT OF THE UNIVERSITY ACTIONS

~~Receipt of the provost's recommendation and the Grievance Committee's recommendation and any rebuttal from the grievant shall be acknowledged in writing and dated by the president. Within fifteen working days of receipt of the recommendations, the president must act. Agreement or disagreement with either the provost's or the Grievance Committee's recommendation must be in writing. In particular, if the Grievance Committee's recommendation is not followed, the president must provide a full explanation in writing.~~

~~The president's decision, along with any necessary explanations, must be distributed to the grievant, the respondent, the Grievance Committee, and the provost.~~

XII. — REBUTTALS

~~12.1 The grievant or the respondent(s), upon receipt of recommendation and explanations from the Grievance Committee or Provost, is entitled to submit a rebuttal within five working days of receiving that recommendation. Such rebuttal shall be sent to the Provost office or President, where appropriate, and shall be limited to errors of fact or procedure found in the recommendation.~~

~~12.2 Rebuttal letters from the grievant or respondent(s) shall be included in the file as it continues through the grievance process and should be considered at all subsequent levels of review.~~

XIII. — PROHIBITION OF DISCRIMINATION OR RETALIATION

~~13.1 Nothing in this policy shall be used as a basis for discrimination or retaliation against any individual or group.~~

~~13.2 No retaliatory action may be taken against any individual who files or assists with a grievance because of his or her involvement with the grievant.~~

XIV. — ADHERENCE TO TIMELINES

~~Any request for departure from the established timelines in this policy should be made in writing to the provost before the Grievance Committee is formed or to the chair of the Grievance Committee after the committee is formed. When the chair of the Grievance Committee receives such a request, the committee will determine the appropriate action to be taken. The accompanying Table in 14.1 of this policy describes the timeline for a formal grievance procedure.~~

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14.1 Timeline for Formal Grievance Procedure

Action	Timeline
Filing of grievance with provost	Within 120 calendar days from grieved event
Provost sends grievance to respondent	Within ten working days of prior action
Respondent replies to provost in writing	Within ten working days of prior action
Provost instructs parties to choose representatives	Within ten working days of prior action
Grievant and respondent choose representatives and notify provost	Within ten working days of prior action
Representatives choose three other members of the Grievance Committee	Within ten working days of prior action
Committee notifies parties of the hearing	At least ten working days before hearing
Hearing occurs if needed	Within 60 working days
Grievant and respondent submit documents to Grievance Committee	At least five working days before hearing
Grievance Committee recommendation to provost	Within 30 working days after the hearing or 90 working days after representatives chosen
(Optional) Rebuttal filed to grievance committee recommendation	Within 5 working days after recommendation to provost
Provost's recommendation to president of the university and response to the Grievance Committee	Within 5-15 working days of receipt of the Grievance Committee recommendation
President's decision to the grievant, the respondent, the Grievance Committee and the provost	Within 15 working days of receipt of the Provost's recommendation

XV. GRIEVANCES IN MATTERS OF PROMOTION AND TENURE

15.1 When a negative recommendation on conferring tenure or promotion has been reached at the level immediately prior to the President's decision (e.g., the letter written by the Provost), the faculty member involved can file an appeal. Notice of intent to file an appeal must be provided to the Office of the Provost within 5 business days of the candidate notification from the Provost's Office of the recommendation of non-renewal of appointment, denial of tenure or denial of promotion.

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Commented [SC14]: When we revised P&T under Berberich, this was added as part of the deal to get everyone to agree to the UPTC. As far as I'm aware, it's never actually been used because criteria sort of took all the drama out of P&T. Outside of editing out Faculty Senate, I left it alone because I didn't want to kick the hornet's nest.

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15.2 Decisions to recommend not to confer tenure or not to promote may be appealed based upon the following three conditions:

- A. _____ An error in the described procedures materially affected the outcome;
- B. _____ The decision was not based upon the applicable criteria included in the Promotion and Tenure File; or
- C. _____ The outcome was arbitrary, discriminatory, or capricious.

15.3 Faculty members who wish to file an appeal against a negative promotion or tenure recommendation must outline in their appeal letter, clearly and succinctly, the reason for the appeal. The reason for appeal must be linked to one (or more) of the three the criteria above. The appeal must be filed with the Office of the Provost within 10 business days of the candidate notification of the recommendation of non-renewal of appointment, denial of tenure, or denial of promotion. Upon receipt of intent to file an appeal, an appeal committee will be formed at the behest of the Provost by the Faculty Council Senate.

15.4 The P&T Appeal Committee will consist of 4 faculty members (one from each college). The four faculty will be drawn from the Faculty Grievance Panel. Every member of the committee shall be a full-time tenured faculty member at the rank at or above the rank of promotion requested by the candidate. If there are not enough members of the Faculty Grievance Panel of sufficient rank, the Faculty Council Presiding Officer Council of Professors shall nominate a member to add to the Grievance Panel with the assent of the Faculty Senate Governance Committee. No current member of any committee evaluating the candidates (e.g. peer-review committee, university or college promotion and tenure committee) shall be eligible for membership on the P&T Appeal Committee. Faculty members of the P&T Appeal Committee will be selected by random draw as outlined in section 7.3.1. If possible, faculty members actively serving on an appeal should not be drawn for a second appeal I, though this may be waived if there are insufficient eligible faculty of the required rank.

15.5 In the written appeal to the P&T Appeal Committee, the faculty member shall set forth in detail the nature of the appeal and shall submit material pertinent to the case. By filing, the faculty member consents to the P&T Appeal Committee having access to those materials and documents in the Promotion and Tenure File it deems relevant to the proceedings.

15.6 The P&T Appeal Committee shall then review the appeal and decide whether to reject the appeal or hold a formal hearing. The P&T Appeal Committee shall not substitute its judgment for that of the review bodies.

15.7 If the vote is in favor of rejecting the appeal, the appeal ends. This rejection will be sent to the Candidate, the Office of the Provost, and become part of the Promotion and Tenure File as it is forwarded to the President for review.

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15.8 If the vote is to hold a formal hearing, the P&T Appeals Committee shall notify the faculty member of its decision to hold a formal hearing within 10 business days of receipt of the appeal and documentation. The Committee can request additional information if needed. Any participation in the process is voluntary. Faculty and administration are expected to cooperate with the P&T Appeal Committee in providing reliable, relevant, and valid evidence for the committee to make an informed judgment.

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15.9 The hearing shall begin within 10 business days of the decision to conduct it and shall proceed as expeditiously as possible. Decisions of the P&T Appeal Committee require a majority vote, but minority opinions must be represented in the final report if the minority so desires. All voting will be by secret ballot.

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15.10 If the Committee is not able to reach a consensus, members of the Committee may write dissenting opinions, which shall be attached to the majority opinion.

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15.11 A recommendation shall be sent in a written report to the Candidate and the Office of the Provost within five business days of the end of the hearing. The written report of the P&T Appeals Committee will also become part of the Promotion and Tenure File as it is forwarded to the President for review.

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15.12 The President has the option to request the Provost provide a written opinion on the P&T Appeals Committee report. The Provost's written opinion shall be sent to the Candidate and the Office of the President within five business days of the President's request and will also become part of the Promotion and Tenure File.

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15.13 Promotion and Tenure Appeal Timeline

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Action	Timeline
Candidate notifies Office of The Provost of intent to file a P&T Appeal.	Within 5 working days of receipt of the letter from the University P&T Committee (UPTC).
Office of Provost Alerts Faculty Senate President and Chair of Senate Governance Committee of need to form a P&T Appeals Committee.	Upon day of notification by the Candidate of intent to file an Appeal.
P & T Appeals Committee is formed	Within 5 working days of receipt of notification by the Candidate of intent to file an appeal
Candidate files their Appeal with the Office of the Provost. Provost office immediately forwards the letter to the Appeals Committee Members.	Within 10 working days of the letter from the UPTC.

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~~P&T Appeals Committee reviews the appeal and decide to reject or hold a hearing. Notification sent to Candidate and Office of the Provost and becomes part of the Promotion and Tenure File.~~

~~Within 10 working days of receipt of the Appeal.~~

~~P&T Appeals Committee holds a hearing (if decision is to hold a hearing)~~

~~Within 10 working days of the notification of parties re: decision to hold a hearing~~

~~P&T Appeals Committee submits their report to the Candidate and Office of the Provost.~~

~~Within 5 working days of the hearing.~~

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APPROVAL

Approved:

Senior Vice President of Academic Affairs and Provost

President

Date

REVISION LOG

Revision Number	Approval Date	Description of Changes

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