

Faculty Grievance Procedures Handbook Revision v22

Summary of proposed revisions:

1. The handbook section relating to grievances concerning a decision related to tenure is expanded to include decisions relating to the reappointment and promotion of any faculty member eligible to vote in Senate elections, whether tenure-track or not. The determination of the ranks that confer faculty status continue to be left to each school, as in the existing handbook. These grievances will be investigated by a Faculty Grievance Committee consisting of five or more members appointed from a list of fifteen faculty nominated by the president and provost.
2. Grounds for the appeal of tenure, reappointment and promotion decisions are expanded beyond procedural irregularities to include violations of academic freedom as defined by the AAUP and the Association of American Colleges and Universities
3. Given the complexity of the legal issues involved, the section in the existing handbook relating to grievances over harassment and discrimination simply refers the reader to “the procedure described in ‘Procedure for grievances alleging discrimination...’”. This is a reference to Policy 106. A subcommittee of the Commission on Women and Gender Equity is now at work on revising the procedures relating to this category of grievance.
4. The section relating to general grievances over decisions relating to matters such as salary, space and other resources is revised. The existing procedure for appealing such decisions calls for a formal hearing with the department chair, with the option of appealing the resulting decision to the dean and then to the provost. In the proposed revision, an additional procedure is added for complainants who believed that a decision resulted in the violation of their academic freedom. These complainants would now be entitled to request an investigation by the same sort of Faculty Grievance Committee used for grievances related to tenure, reappointments and promotions.
5. An explanation of the outcome of the final determination in circumstances where the UCTP has formed a grievance committee will be communicated back to the complainants, the respondents, and the UCTP in the form of a report from the president, provost, senior vice president for health sciences, dean, or program director, as appropriate.

IV. Faculty Policies

A. Faculty Duties, Rank, and Tenure

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3. Process for Promotion

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Reconsideration / Review of Promotion Decisions

If the review committee did not have before it, through no fault of the candidate or his or her sponsors, some information of substantial importance at the time the committee was developing its recommendations, the provost or senior vice president for health sciences may ask for reconsideration of the case by the same committee, whether it be a standing committee or an ad hoc committee.

Generally, there is no appeal on substantive ground of the decision of the president, the provost or senior vice president for health sciences. If a faculty member believes that there were procedural irregularities, or that there was infringement upon the academic freedom of the individual in the consideration of their case, they may initiate an appeal. It is the responsibility of the complainant to demonstrate the way the adverse decision that is the subject of the complaint was taken in response to an action protected by the principle of academic freedom. The appeal will follow the same procedures as a “Tenure and Appointment Grievance” under “Faculty Grievance Procedures” in this handbook. On the basis of the reports produced by the Faculty Grievance Committee (defined below) and the University Committee on Tenure and Privileges, the president and provost may elect to modify their prior decision.

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C. Faculty Grievance Procedures

All faculty who are eligible to vote in Senate elections have available to them three different grievance procedures:

The first procedure is designed for grievances relating to faculty reappointments, promotions and tenure, the second procedure is for general grievances, and the third procedure is for those relating to discrimination. The faculty member decides which of these procedures most closely fits his or her concern, since only one of these procedures may be utilized for any particular grievance. The details of each procedure are given below.

Grievances related to faculty reappointments, promotions and tenure follow the procedure described in “Tenure and Appointment Grievances”.

Grievances over faculty salaries, teaching loads, office space, real and potential conflicts of interest, and the like, follow the procedure described under “General Grievances”.

Grievances in which a faculty member believes that they have suffered discrimination or harassment on the grounds of sex, race, age, national origin, disability, religion, sexual orientation, or gender identity are subject to the procedure outlined in the University of Rochester’s Policy Against Discrimination and Harassment (#106). Any case in which a member of the University community alleges discrimination or harassment by a faculty member follows the same procedure.

These three procedures are appropriate for grievances relating to events occurring while an individual holds a faculty position. Each school makes its own determination of the ranks that confer faculty status, and the appropriate dean’s office shall be consulted in cases of doubt.

References to Academic Freedom in this Handbook are adapted from the *Statement of Principles on Academic Freedom and Tenure* that was adopted by the Association of American University Professors and the

Association of American Colleges in 1940 as these were further interpreted by a joint committee of those associations in 1970.

1. Faculty members are entitled to full freedom in research and in the publication of results, subject to the performance of their other academic duties such as teaching, administrative service, clinical responsibilities and whatever other responsibilities are specified in their appointment agreement.
2. Faculty members are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.
3. Faculty members are participants in civil society, members of a learned profession, and officers of an educational institution. When they speak or write as participants in civil society, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should show respect for the opinions of others, and should indicate when appropriate that they are not speaking for the institution.
4. Both the protection of academic freedom and the requirements of academic responsibility apply to all faculty who exercise teaching responsibilities.

At any step in these procedures an administrator may wish to consult his or her customary advisory body. For instance, when the dean of the School of Medicine and Dentistry is involved, they may seek advice from the school's Executive Committee.

These procedures have no bearing upon hospital privileges at Strong Memorial Hospital or any other hospital affiliated with the University. Special procedures approved by the Joint Commission for the Accreditation of Health Care Organizations exist for this purpose.

1. Tenure and Appointment Grievances

If an individual believes that they have grounds for a grievance based on a decision related to tenure, the granting of tenure, reappointments or promotions, they shall inform, in writing, the president, provost, and, in cases involving the School of Medicine and Dentistry, or the School of Nursing, the senior vice president for health sciences. Grounds for such a grievance include both procedural irregularities in the way decisions were reached as well as violations of an individual's academic freedom. The president and provost will then refer the matter to the University Committee on Tenure and Privileges for review and recommendation.

If the person presenting the grievance is a member of the University Committee on Tenure and Privileges, they shall withdraw from the committee until the case is settled. Similarly, if any member of the committee is a member of the same department as that of the person under question, they shall withdraw from this committee when it convenes for this purpose until the case is settled. Other members of the committee shall withdraw from the committee during any investigation if, in their own judgment, they are not able to participate impartially. If any member of the committee withdraws for any of these reasons, they should be temporarily replaced by a member of one of the faculties of the University who has tenure, the new and temporary member being chosen by the remaining members of the committee.

If the president, provost and the University Committee on Tenure and Privileges are unanimous that the grievance is without *prima facie* merit and should not be heard, the process may end with the University Committee on Tenure and Privilege submitting a letter to the president, provost and complainant to this effect.

If any of the president, provost or University Committee on Tenure and Privileges decides the case should be heard, the University Committee on Tenure and Privileges shall promptly appoint a Faculty Grievance Committee of five members of the faculty from a list, nominated by the president or provost (in consultation with the senior vice president health

sciences for cases involving the School of Medicine and Dentistry or the School of Nursing), of 15 members with tenure from the faculties of the University of Rochester. This list shall have appropriate representation from the same school as the faculty member presenting the grievance, and shall have a majority from that school unless the president finds it unreasonable. The University Committee on Tenure and Privileges shall apply the same principle in selecting the Faculty Grievance Committee. The Faculty Grievance Committee may, at its discretion, add to the committee not more than two members of the faculties of other institutions from a panel of six such persons nominated by the president or provost (in consultation with the senior vice president for health sciences for cases involving the School of Medicine and Dentistry, or the School of Nursing).

It is the duty of the Faculty Grievance Committee to investigate, hold hearings, make recommendations, and report upon any case presented to it. In particular, this committee and the University Committee on Tenure and Privileges shall have access to all documents in the case that are in the possession of the University. The votes of the Faculty Grievance Committee on matters of substance shall be by secret ballot.

The person with the grievance shall have the opportunity to speak directly to the Faculty Grievance Committee, to produce witnesses in her or his behalf, and to be accompanied by an advisor of his or her own choosing who may act as counsel. The provost or president may choose to present materials regarding the complainant's work at the University to the Faculty Grievance Committee which would otherwise be confidential, such as internal and external reference letters. The report of the Faculty Grievance Committee shall consist of a summary of its findings and recommendations for the disposition of the case. Their report and a full verbatim record of the hearing shall be presented to the University Committee on Tenure and Privileges.

After completion of their review, the University Committee on Tenure and Privileges will provide the complainant a full verbatim record of the Faculty Grievance Committee hearing, a copy of the Faculty Grievance

Committee's report, and a copy of the comments and recommendations of the University Committee on Tenure and Privileges. In grievances involving promotion to tenure, confidential letters submitted by outside reviewers will not be shared with the complainant. The complainant will be expected to keep contents of the verbatim record confidential.

University Committee on Tenure and Privileges shall also submit the report to the dean or director of the appropriate school and to the president, provost, and, in cases involving the School of Medicine or the School of Nursing, the senior vice president for health sciences, with its comments and any recommendations it may have. The report of the Faculty Grievance Committee and the comments of the University Committee on Tenure and Privileges shall be major factors in the final decision of the administration, and, in cases involving tenure, the Board of Trustees.

The deliberations and recommendations of the University Committee on Tenure and Privileges and of the Faculty Grievance Committee shall be held confidential by their members. All relevant material resulting from these deliberations shall be placed at the disposal of the president and provost, the senior vice president for health sciences (for cases involving the School of Medicine and Dentistry or the School of Nursing), and the appropriate dean or director at their request by the chair of the University Committee on Tenure and Privileges. If, however, the person bringing the grievance shall request it, the University Committee on Tenure and Privileges shall report the recommendations of the Faculty Grievance Committee and of the University Committee to the faculty of the appropriate school, without comment beyond certifying the correctness of the procedure.

Once the final decision has been reached by the president, the provost and the senior vice president for health sciences (for cases involving the School of Medicine and Dentistry or the School of Nursing) and, in cases involving tenure, approved by the Board of Trustees, a letter

stating the outcome and broadly explaining the rationale for the decision shall be prepared by the president and provided to the complainant and the University Committee on Tenure and Privileges.

2. General Grievance Procedure

The procedures described below leave intact an important tenet of the University: the trustees and the central administration have delegated to the schools the responsibility for making academic decisions in their own areas of expertise. In such academic areas, which include the standing of a faculty member in his or her field as reflected in salary or related matters, the responsibility for the substance of decisions rests with the school itself, and with the dean as the primary representative of that school. Appeals from the decision of the dean to the level of the provost may be made only in cases where the appellant believes that improper procedures have been applied or that bias or prejudice have entered the procedures. It is not in the nature of the University for the provost or president to substitute his or her academic judgment for the academic judgment of a dean.

General Grievance procedures are intended for disputes involving salaries, teaching loads, office space, real and potential conflicts of interest, and the like. It shall not be used, however, for cases in which a faculty member seriously believes his or her tenure to be violated, for cases involving promotion or reappointments, or for cases in which discrimination is the source of the complaint.

Any member of the faculty who believes that they have a general grievance that does not involve the infringement of academic freedom is not only entitled but is encouraged to go to their department chair and to have a formal hearing of the grievance. They shall first make certain that the department chair has all the evidence that the faculty member wishes, including any written documents, testimonial, or relevant information whatsoever.

The chair may be able to respond at the end of the meeting. In the likely

case that new information or arguments emerge at the meeting, the chair may take the grievance under advisement. There is no rule on how long the chair may take to study the whole matter, but the expectation is that it will be a matter of only a few days unless the hearing opens up some major new area that requires much longer to investigate. At the end of this time, the chair shall report the decision to the faculty member in writing.

If this decision is not satisfactory to the faculty member, they have the right to appeal to the dean. The same procedure shall be followed there. If new information is to be introduced by the complainant, the department chair must have an opportunity to study that and may ask to repeat the original hearing process. It is best if the department chair can accompany the faculty member in the hearing by the dean, but that is not required.

The dean is expected to respond in writing to the complainant within a few days. However, the complexity of the complaint, a need to independently gather information from others, including the department chair if they have not been present during the hearing may delay the decision.

In cases where the grievance crosses department or school boundaries, the complainant should consult the provost who will decide which chair(s) and/or deans should be involved in these hearing processes.

If the faculty member is still unsatisfied, they may inform the provost or the senior vice president for health sciences. The complainant may elect for a hearing solely by the provost. The best interests of the faculty member are usually served in such a hearing if the dean and the department chair can be present, but the faculty member has the right to have this hearing alone if they wish. If new information has become available, the department chair and Dean must have an opportunity to study it. If there is substantial new information, the hearing with the chair shall be held again, effectively restarting the process.

After consultation with the provost, any member of the faculty who believes that they have a general grievance that does involve the infringement of academic freedom may request the involvement of a Faculty Grievance Committee. The provost will then refer the case to the University Committee on Tenure and Privileges unless, in consultation with the University Counsel, they determine that the grievance should be referred to one of the other two processes described in this document. If so, they will inform the complainant of this determination and the procedures for those types of grievance will be followed instead.

If the person presenting the grievance is a member of the University Committee on Tenure and Privileges, they shall withdraw from the committee until the case is settled. Similarly, if any member of the committee is a member of the same department as that of the person under question, they shall withdraw from this committee when it convenes for this purpose until the case is settled. Other members of the committee shall withdraw from the committee during any investigation if, in their own judgment, they are not able to participate impartially. If any member of the committee withdraws for any of these reasons, they should be temporarily replaced by a member of one of the faculties of the University who has tenure, the new and temporary member being chosen by the remaining members of the committee.

If the provost and the University Committee on Tenure and Privileges are unanimous that the grievance is without *prima facie* merit or if the grievance does not relate to academic freedom and therefore should not be heard, the process may end with the University Committee on Tenure and Privileges submitting a letter to the provost and complainant to this effect.

For each grievance that either the University Committee on Tenure and Privileges or the provost determine involves questions of academic freedom, the University Committee on Tenure and Privileges shall promptly appoint a the Faculty Grievance Committee which consists of

five members selected from a list of 15 tenured faculty members of the University of Rochester nominated by the president or provost (in consultation with the senior vice president health sciences for cases involving the School of Medicine and Dentistry or the School of Nursing). In cases involving non-tenure-track faculty members in the School of Medicine and Dentistry or the School of Nursing, the Faculty Grievance Committee will be appointed from a list that includes full- or part-time senior faculty members familiar with their work contexts. This list shall have appropriate representation from the same school as the faculty member presenting the grievance and shall have a majority from that school unless the president or provost finds it unreasonable. The University Committee on Tenure and Privileges shall apply the same principle in selecting the Faculty Grievance Committee. The Faculty Grievance Committee may, at its discretion, add not more than two faculty members from other institutions, selected from a list of six such persons nominated by the president or provost (in consultation with the senior vice president for health sciences for cases involving the School of Medicine and Dentistry, or the School of Nursing).

It is the duty of the Faculty Grievance Committee to investigate, hold hearings, make recommendations, and report upon any case presented to it. The complainant shall have the opportunity to speak directly to the Faculty Grievance Committee, to produce witnesses on her or his behalf, and to be accompanied by an advisor of her or his own choosing who may act as counsel. It is the responsibility of the complainant to demonstrate the way the adverse decision that is the subject of the complaint was taken in response to an action protected by the principle of academic freedom. The involved department chair(s) and deans(s) will also have an opportunity to speak at the Faculty Grievance Committee hearing. The provost or president may choose to present materials regarding the complainant's work at the University to the Faculty Grievance Committee which would otherwise be confidential. A verbatim record of the hearing shall be made available to the complainant and the involved department chair(s) and dean(s).

The votes of the Faculty Grievance Committee on matters of substance shall be by secret ballot.

The Faculty Grievance Committee's report shall consist of a summary of findings, comments on the case, and the Faculty Grievance Committee's recommendations for the disposition of the case. The deliberations and recommendations of the Faculty Grievance Committee shall be held confidential by their members. The report shall be presented to the University Committee on Tenure and Privileges which in turn shall submit the report to the provost, and, in cases involving the School of Medicine or the School of Nursing, to the senior vice president for health sciences. The complainant and involved department chair(s) and dean(s) shall also be entitled to receive a copy of the Committee's report and comments of the University Committee on Tenure and Privileges. All relevant material resulting from these deliberations shall be placed at the disposal of the provost or senior vice president for health sciences (for cases involving the School of Medicine and Dentistry or the School of Nursing by the chair of the University Committee on Tenure and Privileges. The report of the Faculty Grievance Committee and comments of the University Committee on Tenure and Privileges shall be major factors in the final decision of the provost and/or the senior vice president for health sciences.