

## Document XVII

### PROCEDURES FOR MEDIATION AND FOR HEARINGS BY THE FACULTY GRIEVANCE COMMITTEE

When a faculty member has a grievance against the University administration or against a fellow faculty member, that faculty member may seek to resolve the grievance through the "Faculty Grievance Procedures" delineated in Section V of the *Faculty Handbook*. This document describes the procedures to be followed in mediation and in grievance hearings.

#### A. FACULTY GRIEVANCE MEDIATION PROCEDURE

1. The goal of mediation will be to attempt to achieve a timely resolution satisfactory to all parties to the grievance, thus obviating the need for the grievant to proceed through the administrative chain of command or Faculty Grievance Committee hearing parts of the grievance process.
2. Mediation is a voluntary process in which the mediator attempts to assist the parties to a dispute communicate with each other, clarify the issues, seek to understand the interests that the parties have in common, and work together to develop an agreement acceptable to all parties. The mediator makes no judgments, imposes no solutions, and writes no report.
3. The first step in the mediation process is for the grievant to inform the Chair of the Faculty Grievance Committee of his/her intent to pursue a grievance. The Chair shall provide a copy of the "Faculty Senate Mediation Procedure" to all parties and offer the opportunity for mediation, which will go forward only if all parties agree.
4. If all parties agree to mediation, the Chair of the Faculty Grievance Committee shall refer the matter to the Chair of the Faculty Senate Mediation Committee. The Chair of the Mediation Committee shall provide all parties a list of the members of the Mediation Committee who are not currently engaged in a mediation and shall assist the parties in coming to an agreement on one or two mediators from the list. If the parties cannot reach agreement on a mediator from the available members of the Mediation Committee, any party may propose any other person from the university community to the Chair of the Mediation Committee, who shall propose the name to all other parties. The Chair of the Mediation Committee shall make every effort to complete the process of bringing the parties to an agreement on a mediator within two weeks of receiving notification that the parties have agreed to attempt mediation.
5. For mediation related to tenure, promotions, and merit raises, all administrators in the chain of command above the named party or parties who have signed the relevant paperwork on tenure, promotion, or merit raise recommendations are parties to the mediation process.
6. Once mediation has been initiated, the university will encourage all parties to respond promptly to requests by the mediators for information, appointments, and meetings.
7. If two mediators are agreed upon, they will work as a team.
8. Mediators shall maintain strict confidentiality. Mediators shall destroy all notes when the mediation process has been completed or ceases at the request of any party. Mediators may not be called as witnesses before the Faculty Grievance Committee.
9. Any party may withdraw from the mediation process at any time, by notifying the mediator or mediation team in writing. If mediation fails, the grievant may then proceed with the next part of the grievance procedure.

#### B. PROCEDURES GOVERNING HEARINGS BY THE FACULTY GRIEVANCE COMMITTEE

1. The Faculty Grievance Committee, as described in the current *Faculty Handbook*, is an integral component of the faculty grievance procedure.
2. One of the primary purposes of the Committee is the provision of a fair and timely investigation of a faculty grievance for the purpose of ascertaining the facts of the complaint and making a recommendation to the President. The Committee shall hold a hearing if it feels a hearing is necessary.
3. The Committee shall hold closed hearings. Proceedings shall not be recorded.
4. All evidence submitted is for use and information of the Committee and shall be the property of the Committee.
5. The Committee stresses the fact that the matters it considers are serious, and all parties shall have a professional responsibility for the accuracy of their testimony and other evidence offered.
6. The committee demands that order, dignity, and courtesy be maintained at all times in a hearing.
7. The Chairperson of the committee shall send to the grievant, persons named in the grievance, and the appropriate Vice-President at least ten working days in advance written notice of the date, time, and place of a hearing, which has been set up by the Committee. The Chairperson shall also send at that time to each of the above a copy of the grievant's statement of grievance, the current statement of the appropriate procedures of the Committee, and the names of the members of the Committee.
8. Six Faculty Grievance Committee members shall constitute a quorum.
9. The Committee shall determine the formality or informality of the meetings.
10. The faculty member presenting a grievance and named parties may be accompanied at the hearing by an attorney, and/or other person of his/her choosing, whose role is limited to advising the grievant or named party and does not under any circumstances include presentation, questioning witnesses, or addressing the committee.
11. Legal rules of evidence do not apply. Relevant evidence to support the grievance, to support the position of those named in the grievance, or to otherwise assist the Committee in its deliberations may be presented by the grievant, by named persons, by the administration, by witnesses personally appearing and testifying, by statements of witnesses who cannot be present, and by documentary evidence in the form of photocopies. Other evidence may be photographed or described for the record. All evidence shall be presented to the Committee and identified. All witnesses are to speak the truth to the best of their knowledge.
12. The Committee shall hear the faculty member's grievance and the responses of the administration or other named persons separately. Neither party shall be present when the other party is presenting.
13. The grievant and the administration or other named persons shall be allowed to present witnesses to the Committee. Witnesses will be heard separately.
14. The Committee shall, when new or relevant subsidiary issues emerge during the testimony or questioning of parties or witnesses or when the testimony is conflicting, seek additional documentary evidence and/or recall witnesses and parties in an effort to ascertain the facts.
15. With the approval of the University President, the Committee may engage counsel to help in conducting its business.

16. The Committee may call for any additional evidence, witnesses, and testimony it deems necessary. The administration and the grievant shall make available all documents and other evidence requested by the Committee. The University shall make every attempt to have the requested witnesses appear before the committee.
17. The Committee recognizes that it is difficult to formulate a set of procedures that can anticipate and accommodate all possible circumstances. Therefore, the chairperson is empowered to rule on all questions of procedure. When it is deemed necessary, the Chairperson may call a recess at any time and ask the Committee for a private discussion and assistance in a ruling.
18. If a member of the Committee recuses himself/herself from a particular grievance hearing, the Committee or parties may nevertheless call him/her as a witness.
19. In addition to his/her responsibilities of presiding over meetings, the Chairperson shall exercise full voting privileges.
20. The Chairperson and all Committee members shall inform the Committee of any information relevant to the grievance that is brought to them individually by any administrators, faculty members, or other persons.
21. The committee may seek to bring about a settlement of the issue(s) satisfactory to all parties.
22. At the close of the hearing, the committee shall convene in a closed session to formulate a recommendation and rationale and/or finding of facts concerning the grievance. The recommendation will be presented to the President in writing. A copy of the recommendation and rationale and/or finding of facts shall be provided to the grievant and to the person(s) named in the grievance. The President may ask for further clarification, and the committee shall provide written clarification, with copies to the grievant and the person(s) named in the grievance.
23. The Committee reserves the right to make timely revisions of its procedures as deemed necessary.