

3364-72-51 Faculty grievance and appeals.**(A) Policy statement**

To complement the principles of academic freedom faculty are to be protected from adverse decisions or actions resulting from or associated with unfair practice(s) or failure of due process that are clearly erroneous, arbitrary or capricious.

(B) Purpose of the policy

To provide a forum for due process concerning faculty grievance and appeals.

(C) Scope

This policy applies to occupational therapy and physical therapy faculty of the Judith Herb college of education, health science and human service, and all faculty in the college of medicine and life sciences, college of pharmacy and pharmaceutical sciences and college of nursing, and that are not bound by a collective bargaining agreement. The term “grievant” refers to a university faculty member not bound by a collective bargaining agreement (salaried only) in the colleges of education, medicine, pharmacy and nursing. Issues that are grievable under this policy include adverse actions that directly affect the grievant and that may include matters relating to the promotion, tenure or renewal of a faculty member subject to this policy, to the extent that an unfair practice or failure of due process has occurred to the grievant that is clearly erroneous, arbitrary or capricious. Community, volunteer, adjunct and emeritus faculty are not entitled to the rights set forth in this rule.

(D) Procedure

(1) Prior to filing a grievance, the grievant should pursue every possible means of resolving the issue in question by consultation with party or parties involved and with the chair and the dean. To that end, all faculty staff and administrators are encouraged to engage in free and open communication in the airing and resolution of differences.

(2) If unresolved, the grievant will set forth in writing the scope and nature of the grievance and the alleged violation (initial letter). The initial letter will summarize all efforts made from time to time to resolve the issue by the affected parties, including consultation with the pertinent university offices such as institutional diversity,

human resources, or compliance. The initial letter must be filed with the department chair of that faculty member within forty working days of the date on which the grievant knew or should have known of the grievable adverse decision or action. Whenever the chair is a party to the grievance, the initial letter will be submitted directly to the dean. Whenever the dean is a party to the grievance, the initial letter will be submitted directly to the chancellor and executive vice president for biosciences and health affairs (“chancellor”) or provost and executive vice president for academic affairs (“provost”), whichever is the governing level above the party in grievance. Whenever the chancellor or provost is a party to the grievance, the initial letter will be submitted directly to the president. Whenever the president is a party to the grievance, the initial letter will be submitted directly to the chair of the board of trustees.

(3) The appropriate recipient of the letter will have the opportunity to resolve the grievable issue(s) to the satisfaction of all parties, using existing administrative structure and authority. If not resolved to the mutual satisfaction of all parties within twenty working days of receipt of the initial letter, the initial letter and any further relevant information may be referred by the grievant to the chair of the faculty grievance committee. As used in this policy, the term “working days” means calendar days except Saturdays, Sundays, and legal holidays as observed by the university.

(4) Faculty grievance committee (“FGC”)

(a) The FGC will be a standing group of the faculty of the university of Toledo and will consist of fifteen full time faculty members holding regular appointments at the rank of professor or associate professor and who are not bound by a collective bargaining agreement. Excluding the college of graduate studies, FGC representation will correspond to the relative number of faculty in each college who are not bound by a collective bargaining agreement, with each college having at least one faculty representative. The faculty of each college will elect the members for staggered terms of four years. The elections will be organized each year by the faculty committee on rules and

regulations. The FGC will report to the chancellor or provost.

- (b) The members of the FGC will annually elect a chair and vice chair. The membership of the FGC will be communicated to the applicable faculty annually by the faculty committee on rules and regulations.
- (c) Any member of the FGC who has a grievance pending before the FGC will be removed from all FGC activities until the grievance is resolved. FGC members who cease to be full-time members of university faculty, or whose duties become primarily administrative at a level higher than chair, will be ineligible to continue serving. The dean of that college will appoint a new FGC member to serve until the next scheduled election.
- (d) FGC members will maintain confidentiality with regard to all deliberations and recommendations to the extent permitted by law, and except that items reduced to writing are subject to the Ohio public records act, section 149.43 of the Revised Code.
- (e) For each grievance, the chair of the FGC will appoint four members from the FGC pool to a hearing committee, and will attempt to include at least one from the same college as the grievant (“hearing committee”). The FGC chair (or vice chair, at the chair’s designation) will chair this five member hearing committee. When the grievant believes a conflict exists between the grievant and an appointed member to the hearing committee, the grievant may send a request in writing to the chair of the FGC that the member be replaced. Brief rationale for the request must be included. The chair will have the discretion to determine whether the member is replaced as long as the chair is not the member that the grievant has asked be replaced, in which case the determination will be made by the vice chair.

(5) Prior to the hearing, the hearing committee will:

- (a) Fix the time and place for each hearing and, at least five working days prior thereto, will deliver written notice of the time and place of hearing to the grievant and to the director of faculty affairs.
- (b) In addition:
 - (i) The grievant may not be represented at the hearing by an attorney unless waived by the chair, in which case university legal counsel may also be present;
 - (ii) The grievant is entitled to attend all hearings. However, the hearing committee will have the power to excuse from the proceeding any witness or witnesses during the testimony of other witnesses. It will be discretionary with the hearing committee to determine the propriety of the attendance of any other persons; and
 - (iii) A record of the proceedings will be made, including the collection of all testimony presented and evidence provided to the hearing committee.
- (c) The hearing committee will:
 - (i) Determine whether the issues raised are grievable under the standard of review set forth in paragraph (C) of this rule;
 - (ii) Review the evidence, testimony and other information it deems relevant and deliberate;
 - (iii) Make separate findings of fact on the substantive issues presented; and
 - (iv) Issue recommendation(s) of the hearing committee, as to corrective action, if any, that might be imposed.
- (6) The recommendation(s) of the hearing committee will be made by majority vote in writing, as certified by the committee chair's

signature. Recommendation(s) of the hearing committee will not consider any evidence, documentation or testimony taken outside the hearing unless agreed to by mutual consent of the grievant, the university and the hearing committee. If agreement is not reached, a new hearing may be held.

- (7) The hearing committee will complete its deliberations and render its recommendation(s) within twenty working days of completion of the deliberations to the level of administrator above involved party or parties, beginning with the chancellor or provost, with a copy to the dean of the appropriate college and to each party to the dispute. If the chancellor or the provost is a part of the grievance, recommendations of the committee will go to the president. If the president is a part of the grievance, recommendations and decisions of the committee will go to the board of trustees, through the appropriate board committee.
- (8) The final decision will be made by the chancellor or the provost or the president, whichever is the governing level above the parties in grievance, within fourteen working days from the date upon which the recommendation of the hearing committee is received. The grievant and all other affected parties will be informed in writing of the final decision.
- (9) The grievant may appeal the decision in writing within twenty working days of the date in which notice was given of the final decision to the next level of governance above the decision maker. The matter will be reviewed on the basis of the existing record and no new evidence or arguments will be heard. A decision will be made within twenty working days of the appeal. If the appeal is submitted to the academic committee of the board of trustees, the final decision will be made within twenty working days of receipt of the appeal, or within one week of the next regular appropriate board of trustees academic affairs committee meeting. The decision by the board of trustees committee will be final.

Effective: 4/20/2020

CERTIFIED ELECTRONICALLY

Certification

04/08/2020

Date

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