

Memo to: All UH-Downtown/PS Holders

UH-Downtown/PS 10.A.02

From: Max Castillo, President

Issue No. 6

Effective Date: 08/01/08

Subject: Faculty Grievance Policy

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## **1. PURPOSE**

This PS describes the procedure by which faculty members can file a formal grievance and the process by which such grievances are resolved.

## **2. DEFINITIONS**

- 2.1 PS—PS is the abbreviation for Policy Statement. University policy statements set forth policies and procedures to be followed by faculty, staff, and administration on a wide range of topics. UH-Downtown PS documents are posted on the university website.
- 2.2 Faculty Member—a member of the Faculty Assembly, a lecturer, or an instructor.
- 2.3 Grievance—a written notification by a faculty member to the Grievance Committee charging that the faculty member has been injured as a result of violations of university policies (specified in 3.1.1 below) and asking for redress; the ensuing hearing of that allegation.
- 2.4 Grievant—the faculty member who files a grievance.
- 2.5 Respondent(s)—the person(s) named by the Grievant as having violated university policy.
- 2.6 Grievance Committee—the elected faculty committee that coordinates the grievance process.
- 2.7 Hearing Committee—a subcommittee of the Grievance Committee, appointed by the Chair of the Grievance Committee, to hear a grievance.
- 2.8 Faculty Ombuds—The Faculty Ombuds is a tenured member of the faculty assembly, a tenured faculty member on modified service, or a retired, formerly tenured member of the faculty. The Faculty Ombuds serves as a resource to faculty with questions about faculty academic rights, responsibilities, and the working environment.
- 2.9 CRO—The Campus Relations Officer is a full-time staff member who advises in conflicts between staff and other staff or between staff and the administration. The CRO also has a role to play in faculty complaints which involve sexual harassment and harassment and discrimination, as specified below in 3.1.3.

- 2.10 Witness—a person called by either the grievant or respondent(s) to provide relevant evidence during a grievance hearing.
- 2.11 Adviser—legal counsel or other party knowledgeable about grievance policies and procedures who may speak with the grievant or respondent(s) during a grievance hearing but may not speak to others present.
- 2.12 Participant(s)—the grievant, respondent(s), and the Hearing Committee.
- 2.13 Working Days—For purposes of this document, the term “working days” is defined as any workweek day (i.e., Monday through Friday), except an official university holiday.

### **3. POLICY**

#### 3.1 Basis for Faculty Grievances

- 3.1.1 A faculty grievance may be initiated on the basis of academic freedom, promotion, performance evaluation (see below 3.1.2), salary, tenure, dismissal, non-reappointment, and materially adverse action.

3.1.1.1 Materially adverse actions include but are not limited to the following:

- A less distinguished job title
- A loss of benefits
- Significantly diminished job responsibilities
- Loss of seniority
- Undesirable reassignment or a pattern of work assignments that are grossly inequitable rather than minor inconveniences.

- 3.1.2 Faculty members who contemplate a grievance based on their performance evaluation must complete the steps outlined in section 3.5 of P.S.10.A.05, Faculty Performance Evaluations, before filing a grievance.

- 3.1.3 Faculty seeking redress for sexual harassment or for harassment and discrimination should not follow the procedures set forth in this PS. To make inquiries or initiate complaints, they should consult the relevant faculty policies (PS 02.A.15 for sexual harassment and PS 02.B.09 for harassment and discrimination) and may confer with the CRO.

### **4. PROCEDURES**

#### 4.1 The Grievance Committee

#### 4.1.1 Nominations and Elections to the Grievance Committee

- 4.1.1.1 To be eligible for membership on the Grievance Committee, a faculty member must have tenure.
- 4.1.1.2 By October 1, the tenured and tenure-track faculty of each department elect two faculty members to serve on the Grievance Committee. In departments where the election of two representatives meeting Committee requirements is not feasible, one representative will be acceptable. Elections will be conducted by the Faculty Senate.
- 4.1.1.3 The President of the Faculty Senate will send to the Vice-President for Academic Affairs and Provost the names of elected representatives. The Vice-President for Academic Affairs and Provost will arrange for official appointment letters to be sent to the elected members of the Grievance Committee and designate a member to call the first meeting of the Committee.
- 4.1.1.4 At its first meeting at which a quorum is present, the Grievance Committee will elect a Chair by written ballot. To be elected, the Chair must receive a majority of the votes. Also at the first meeting with a quorum, the Faculty Ombuds will conduct an orientation to grievance policy and procedures.

#### 4.1.2 Terms of Service

- 4.1.2.1 Grievance Committee members serve two-year, staggered terms.
- 4.1.2.2 The first year that the policy is in effect, half of the Committee members will serve one year, and half will serve two years. This determination should be made by lottery during the meeting at which the Chair is elected.
- 4.1.2.3 A member of the Grievance Committee may not serve more than two consecutive terms.

#### 4.2 Duties of the Grievance Committee Chair

- 4.2.1 The Chair monitors the Grievance Committee and Hearing Committee deadlines.
- 4.2.2 The Chair is responsible for disseminating the filed grievance form to all participants.
- 4.2.3 The Chair of the Grievance Committee is responsible for appointing members to Hearing Committees, paying special attention to the specifications of sections 4.2.3.1, 4.2.3.2, 4.2.3.3, and 4.2.3.4 below.
  - 4.2.3.1 In appointing members to a Hearing Committee, the Grievance Chair should, whenever possible, ensure broad representation from the university's colleges.

- 4.2.3.2 Members can decline service on a Hearing Committee or recuse themselves in advance of the designation of a Hearing Committee.
- 4.2.3.3 A member of the Grievance Committee cannot serve on two consecutive Hearing Committees unless all members of the Grievance Committee have already served once in a given semester or there are no members available for service on a Hearing Committee who have not yet served once.
- 4.2.3.4. A faculty member who is in the same department as the grievant or who has taken part in the decision-making process leading to the grievance cannot serve on the grievant's Hearing Committee.
- 4.2.4 The Chair coordinates initial room scheduling and audio requirements.
- 4.2.5 The Chair contacts advisers required by the Hearing Committee.
- 4.2.6 The Chair arranges for secure storage of hearing documents once a grievance hearing has concluded, in accordance with 4.8.1 below.
- 4.2.7 The Chair may be removed by a two-thirds vote of the Grievance Committee. The Chair of the Grievance Committee must call a meeting for such a vote at the request of any member of the Grievance Committee, the Chair of the Faculty Senate Elections and Credentials Committee will preside, a quorum must be present for such an action to take place, members will vote by written ballot counted by the Chair of the Faculty Senate Elections and Credentials Committee, and absent members may vote provided that they have given their proxy to a member of the Grievance Committee in a sealed and signed envelope.

#### 4.3. The Hearing Committee

- 4.3.1 Each grievance will be heard by a Hearing Committee of five members appointed by the Chair of the Grievance Committee.
- 4.3.2 The Hearing Committee provides an opportunity for the grievant to present the grievance to an impartial group of peers, and an opportunity for response from the party or parties grieved against.
- 4.3.3 The Hearing Committee shall adhere to the guidelines specified in 4.6.
- 4.3.4 Hearings will be heard in a timely fashion consistent with the due process rights of the participants.

#### 4.4. Duties of the Hearing Committee Chair

- 4.4.1 Each Hearing Committee elects its chair, who will serve only for that Hearing Committee.
- 4.4.2 The Hearing Committee Chair schedules rooms if more than one meeting is required for a grievance.
- 4.4.3 The Hearing Committee Chair presides at the hearing and votes only in the case of a tie.
- 4.4.4 At the close of the hearing, the Hearing Committee writes a report of the Committee's findings. See 4.7.1 below.
- 4.4.5 The Hearing Committee Chair submits all hearing documents to the Grievance Committee Chair.

#### 4.5 Grievance and Hearing Timetable

- 4.5.1 Within fifteen working days of the receipt of a written decision against which a faculty member wishes to grieve, the faculty member must deliver a Statement of Grievance (see Exhibit A) to the Grievance Committee Chair.
- 4.5.2 Within five working days of the receipt of a Statement of Grievance, the Grievance Committee Chair appoints the Hearing Committee and disseminates the Statement of Grievance to all participants.
- 4.5.3. Within ten working days of the receipt of a grievance, the Hearing Committee meets, elects a chair, and notifies all participants of the membership of the Hearing Committee.
- 4.5.4 The hearing must be held within fifteen working days of the first meeting of the Hearing Committee.
- 4.5.5 Up until five working days of the hearing, either side may request, in writing, the removal of a Hearing Committee member.
  - 4.5.5.1 The grievant and the respondent(s) have the right to remove only one member each from the Hearing Committee without cause.
  - 4.5.5.2 The grievant and respondent(s) may petition the Chair of the Grievance Committee to remove other members of the Hearing Committee with cause. The decision of the Grievance Committee Chair is final.
  - 4.5.5.3 The Grievance Committee Chair shall designate replacements for Hearing Committee members removed with or without cause.

- 4.5.6 Within five days of the hearing, the grievant and respondent(s) must present a preliminary list of witnesses and advisers, which the Chair shall disseminate to all participants.
- 4.5.7 If the preliminary or final list of advisers includes legal counsel, the Chair of the Hearing Committee shall notify at once the Vice-President for Academic Affairs and Provost
- 4.5.8 The final list of witnesses and advisers must be presented by the grievant and respondent(s) within 48 hours of the hearing unless an extension is granted by the Hearing Committee.
- 4.5.9 Any written documentation that the grievant or the respondent(s) wish to have the Committee consider must be provided to all participants at least 48 hours prior to the beginning of the Hearing.
- 4.5.10 Upon written petition by any party involved in the hearing, the President may extend any deadline in the process. Extensions may not exceed ten working days unless dates outside long semesters are involved.

#### 4.6 Hearing Guidelines

##### 4.6.1 Documentation

- 4.6.1.1 The grievant and the respondent(s) bear the responsibility for securing documentation that they wish to submit to the Committee.
- 4.6.1.2 If any participants have difficulty in obtaining documents in a timely manner, they may seek assistance from the Faculty Ombuds.

##### 4.6.2 Witnesses

- 4.6.2.1 A witness will be present only when the witness is testifying.
- 4.6.2.2 The grievant and the respondents bear the responsibility for arranging the prompt attendance of any witnesses they wish to call.

##### 4.6.3 The Hearing Schedule

- 4.6.3.1 The Hearing will follow this schedule unless the Committee agrees to modify it upon petition from the grievant and/or respondent(s).

##### **Opening statements**

- Grievant (5 minutes)
- Respondent(s) (5 minutes)

### **Presentations**

- Grievant (45 minutes)
- Respondent(s) (45 minutes)

### **Closing Statements**

- Grievant (10 minutes)
- Respondent(s) (10 minutes)

- 4.6.3.2 The purpose of the opening statement is to summarize one's case to the Hearing Committee. No witnesses will be heard, no evidence will be considered, and no questions will be asked during opening statements.
- 4.6.3.3 The Hearing Committee may ask questions of the grievant or respondent(s) at any time after the opening statements or during the Presentations period.
- 4.6.3.4 Witnesses will be heard during the Presentations period. The grievant and the respondent(s) have the right to question all witnesses.
- 4.6.3.5 The purpose of the closing statement is to draw conclusions from the presentations, the witnesses, and the documentation, and to express those conclusions to the Committee. No witnesses will be heard during closing statements. Members of the Hearing Committee may not ask questions until the conclusion of both closing statements from the grievant and respondent(s).

### **4.6.4 Hearing Policies**

- 4.6.4.1 The Hearing Committee Chair will provide this document to all participants prior to the hearing and ask them to read it thoroughly. The Committee will therefore assume that everyone is familiar with the hearing guidelines, and will not discuss or review them at any length during the hearing.
- 4.6.4.2 Except in the case of dismissal (as differentiated from decisions not to tenure or not to reappoint), the burden of proof rests with the grievant, who must clearly demonstrate that an error in substance and/or due process has been made and that the remedy requested is warranted.
- 4.6.4.3 The Hearing Committee will make a good faith effort to answer any questions concerning policies and procedures prior to the hearing. Such questions must be submitted in writing (e-mail is an acceptable medium). The Committee will only respond to questions dealing with

procedural matters and will not discuss the substance of the grievance with any participants.

- 4.6.4.4 The Committee assists the grievant and respondent(s) in securing witnesses. Witnesses lacking specific knowledge pertinent to the problem are not to be heard. Witnesses may present only factual information to the Committee and may not advocate on behalf of the grievant or the respondent(s). The grievant and the respondent(s) should be careful to ask only questions that elicit factual information from witnesses.
- 4.6.4.5 Failure of either the grievant or respondent(s) to appear promptly at the hearing will NOT delay the hearing, except in documentable emergencies. The hearing will move forward with those parties who are present.
- 4.6.4.6 The Hearing Committee must be closed unless an open hearing is agreed to in advance by all participants. All information presented at a closed hearing should be treated by those present as confidential.
- 4.6.4.7 The Hearing Committee is not bound by strict rules of legal evidence and may admit, at its discretion, any evidence with the exception of hearsay which it deems to be valuable in reaching its recommendations.
- 4.6.4.8 Anyone wishing to speak during the hearing must first be recognized by the Chair of the Hearing Committee.
- 4.6.4.9 Advisers to participants, including legal counsel, may not address the Committee or other participants. Advisers and participants may consult privately in a way that does not disrupt the hearing.
- 4.6.4.10 A participant or witness who interrupts or disrupts the hearing, or who speaks without first being recognized by the Committee Chair, will receive a verbal warning. If, on a second occasion, a participant or witness interrupts or disrupts the hearing, or speaks without first being recognized by the Committee Chair, the Chair will ask that individual to leave the hearing room for the duration of the hearing.
- 4.6.4.11 The grievant and respondent(s) cannot be excluded from the hearing at any time unless they violate the provisions of 4.6.4.10.
- 4.6.4.12 The proceedings will be tape recorded. The Committee agrees to make a copy of the recordings available to the Grievance Chair, the grievant, the respondent(s), the Vice-President for Academic Affairs and Provost, and the President upon request.

#### 4.7 Disposition of Recommendations from the Hearing Committee

- 4.7.1 At the conclusion of the hearing, the Hearing Committee Chair assembles the Hearing Committee's findings into a written report that is submitted within seven working days to the Grievance Committee Chair, the participants, the Vice- President for Academic Affairs and Provost, and the President.
- 4.7.2 Within five working days of the receipt of the report of the Hearing Committee from the Committee chair, the Vice-President for Academic Affairs and Provost delivers it to the President with the Vice-President's recommendation. This step is omitted if the Vice-President for Academic Affairs and Provost is one of the respondents.
- 4.7.3 The President should make his or her decision known in writing to the grievant, the respondent(s), Hearing Committee, and the Grievance Committee Chair within fifteen days of his or her receipt of the report of the Hearing Committee. If the President's decision differs from that of the Hearing Committee, specific reasons must be stated, unless prohibited by law.
- 4.7.4 The President has final authority in all grievances, except in the dismissal of a tenured faculty member. In cases of dismissal of a tenured faculty member, the President makes a recommendation to the Chancellor of the University of Houston System. The Chancellor accepts or rejects the recommendation of the President, then presents the decision to the Board of Regents for approval or disapproval.

#### 4.8 Disposition of Documents

- 4.8.1 All hearing documents, including recordings, will be stored in the President's Office.
- 4.8.2 All hearing documents will be destroyed after three years, unless the case is still active legally or unless prohibited by law.

### **5. EXHIBITS**

Exhibit A: Statement of Grievance

### **6. REVIEW PROCESS**

Responsible Party (Reviewer): Faculty Affairs Committee and Provost

Review: Every four years on or before August 1<sup>st</sup>.

Signed original on file in Employment Services and Operations.

## **7. POLICY HISTORY**

Issue #1: 08/11/81

Issue #2: 01/16/85

Issue #3: 06/11/86

Issue #4: 10/09/89

Issue #5: 05/20/02

## **8. REFERENCES**

There are no references attached to this policy.

STATEMENT OF GRIEVANCE

NAME \_\_\_\_\_

DEPARTMENT \_\_\_\_\_ OFFICE \_\_\_\_\_ EXT \_\_\_\_\_

PRESENT RANK \_\_\_\_\_

DATE OF GRIEVANCE \_\_\_\_\_

INDIVIDUAL(S) WITH WHOM GRIEVANCE OCCURRED \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

STATEMENT OF GRIEVANCE (Please be as succinct as possible. Give only the point(s) of the grievance. Details on each point may be presented on a separate sheet.)

LAW OR POLICY VIOLATED \_\_\_\_\_

\_\_\_\_\_

REMEDY REQUESTED \_\_\_\_\_

NOTICE: This Statement of Grievance is being filed in compliance with PS document 10.A.02 Faculty Grievance Procedures.

\_\_\_\_\_  
Signature of Grievant

\_\_\_\_\_  
Date

Received by \_\_\_\_\_

\_\_\_\_\_  
Date

Distribution Copy: Hearing Committee  
Grievant  
Respondent(s)