

TLU Faculty Grievance Procedure

Purpose

For purposes of this procedure, a grievance shall be defined as any faculty vs. faculty complaint arising in the workplace other than complaints of unlawful discrimination (including sexual harassment) or unlawful retaliation. This procedure cannot be used to appeal recommendations of the Rank and Tenure Committee. This procedure may be used to file a grievance against the Vice President for Academic Affairs (VPAA) or a member of the VPAA's Office. This procedure cannot be used to file a grievance against the President.

All problems or disputes should be resolved informally whenever possible. A formal grievance under these procedures may be filed only after the faculty member (referred to as "Grievant") has attempted to resolve the grievance with the appropriate individuals, usually including his or her department chair and the VPAA, without satisfactory results.

Filing a Grievance

If the Grievant decides to file a formal grievance, a written petition for redress (referred to as "grievance petition") must be filed with the Chair of the Faculty Association by certified mail or by another means that provides proof of delivery; group, class, or collective grievances will not be entertained. If the grievance is against the Chair of the Faculty Association, the grievance petition must be filed with the Vice Chair of the Faculty Association, who will fill all the duties assigned to the Chair in this procedure. If both the Chair and the Vice Chair are involved in the grievance, the Past Chair of the Faculty Association will fill all duties assigned to the Chair in this procedure.

The grievance petition must include the following:

- a. The exact nature of the grievance, including a chronology of the circumstances leading to the filing of the grievance;
- b. The identity of all persons against whom the grievance is filed (referred to as "Respondent");
- c. Evidence supporting the grievance;
- d. A description of the attempts previously made to resolve the grievance, and why these were unsatisfactory;
- e. The redress sought;
- f. An acknowledgment by Grievant that a copy of the grievance petition has been provided by Grievant to all persons against whom the grievance is filed, by certified mail or by any other means that provides proof of delivery; and
- g. Consent to examination by members of the grievance committee of documents submitted by the parties, and the Grievant's personnel file, for the purpose of resolving the grievance.

The following timeline is to be followed when a grievance is filed during the academic year. If the grievance is filed late in the academic year and the Chair of the Faculty Association believes

there is insufficient time to complete the process, the Chair may choose to postpone the grievance process until the commencement of the next academic year. If the grievance is filed in the summer (including the May term), the timeline below is to be followed beginning with the commencement of the academic year. The term “days” shall mean working days during the academic year, excluding academic holidays such as Thanksgiving and spring break.

The grievance petition must be filed within 15 days after informal attempts to resolve the grievance have proved unsatisfactory, but in no event more than 60 days after the event giving rise to the grievance. The Chair of the Faculty Association shall empanel the grievance committee and chair as promptly as possible following notification of the grievance.

Selection of Panel for Grievance Committee

The three tenured members of the Evaluations and Compensation Committee shall form the core of all grievance committees. If the grievance is against one of the tenured members of the Evaluations and Compensation Committee, that faculty member will be recused from considering the grievance, and the Chair of the Faculty Association shall appoint a replacement. The Chair of the Faculty Association shall select two additional members from among the tenured faculty to serve on any given grievance committee and designate a chair for that committee. The Chair of the Faculty Association shall provide each committee member with the opportunity to disclose any potential conflicts of interest that may preclude him or her from serving on the committee and shall provide Grievant and Respondent with the opportunity to challenge any potential panelist.

In addition, the Chair of the Faculty Association shall meet or consult separately with the Grievant and Respondent, and allow each the opportunity to remove, without cause, one prospective member from the grievance committee. The Grievant shall be afforded the last opportunity to challenge prospective members. At the same time as the opportunity to remove without cause, each party may also request in writing that prospective member(s) be removed for cause. The request should specify the cause. The Chair of the Faculty Association shall make the decision whether to disqualify for cause, and that decision along with the written request will be made a part of the record. The Chair of the Faculty Association may also disqualify a prospective member for cause, based on written reasons, without a request from the Grievant or Respondent.

After the challenge process is complete, the Chair of the Faculty Association shall consult with the grievance committee, inform them of the names of the parties to the grievance and the nature of the grievance and ask if they have any reason to disqualify themselves. When persons are disqualified, the Chair of the Faculty Association shall contact additional tenured faculty members until five members willing to serve are identified. If the Chair of the Faculty Association has reason to disqualify himself or herself from making this selection, the responsibility will be assumed by the Vice Chair of the Faculty Association. If the Vice Chair has reason to disqualify himself or herself, the responsibility will be assumed by the Past Chair of the Faculty Association.

Following selection of the grievance committee, the Chair of the Faculty Association shall notify Grievant and Respondent of the names of the committee members and committee chair; forward

copies of the grievance petition and the grievance procedure to the committee chair and committee members; and provide copies of the grievance petition along with a list of the names of the members of the grievance committee and the grievance chair to the VPAA. If the grievance has been filed against the VPAA or a member of the VPAA's Office, the responsibilities of the VPAA described in this process shall be filled by the President.

Once a grievance committee is formed, those members from the Evaluations and Compensation Committee shall serve on the grievance committee until the current grievance is resolved, even if their terms on the Evaluations and Compensation Committee expire during the proceedings. If any unexpected vacancies occur on the grievance committee during the grievance process, the Chair of the Faculty Association shall fill the vacancies with tenured faculty members. No challenges may be made by the Grievant or Respondent.

Withdrawal of Grievance

At any time prior to submission of the final report of the grievance committee, the Grievant may withdraw the grievance by submitting written notice to the committee chair. Receipt of this notice shall cancel the proceedings, and the record of the grievance shall consist only of the names of committee members and its chair; the date the committee was formed; dates of the committee's conferences and the grievance hearing, if any; the date of withdrawal; a copy of the withdrawal request; and the grievance petition. Upon receipt of such withdrawal, the committee chair shall promptly transmit the record and all other documents to the Chair of the Faculty Association, who shall in turn discharge the committee. The Chair of the Faculty Association shall seal all the documents related to the grievance and turn them over to the Secretary of the Faculty Association for appropriate locked storage in the library with other Faculty Association documents.

Initial Meeting of the Grievance Committee to Determine Jurisdiction

Upon selection, the chair of the grievance committee shall promptly convene the committee to determine jurisdiction. The committee shall review the grievance petition and any request to dismiss the grievance for lack of jurisdiction. Relevant considerations include, but are not limited to, the subject matter of the grievance (see the University's statements on "Equal Opportunity & Affirmative Action" and on "Sexual Harassment" as well as the tenure section in Section 2.301 of the *Faculty Bylaws & Manual*).

If the matter is deemed by the committee as falling within the committee's jurisdiction, the committee chair shall promptly notify Respondent that a written response to the grievance must be provided to the grievance committee chair and to the Grievant within ten (10) days.

If the matter is not within the jurisdiction of the committee, the Grievance Committee chair shall prepare a report dismissing the grievance for reasons stated and provide said report to the Chair of the Faculty Association. If it is unclear whether the matter is within the jurisdiction of the committee, the committee may seek assistance from the Chair of the Faculty Association and/or the Director of Human Resources to determine whether there is jurisdiction to hear the grievance.

The Hearing

Within five (5) days of the jurisdiction meeting, the committee chair shall notify the Grievant, the Respondent, and the Chair of the Faculty Association in writing of the dates and location of the hearing, which shall occur no more than twenty-five (25) days after the jurisdiction meeting.

The hearing will be conducted with the presence of all five (5) committee members, the Grievant, and the Respondent. If for some reason the Grievant does not appear at the hearing, it will be at the discretion of the grievance committee to reschedule the hearing or dismiss the grievance. If for some reason the Respondent does not appear at the hearing, it will be at the discretion of the grievance committee to reschedule the hearing or proceed with it.

Grievance hearings are closed meetings.

The chair of the committee shall exercise complete control over all stages of the hearing. Consistent with the principles of impartiality and equity, the committee chair shall determine, among other things:

- a. The order of testimony presentation;
- b. Any additional information or documentation that should be requested; and,
- c. The order and procedure for questioning the parties and witnesses, if any.

The rules of legal evidence do not apply. The chair of the committee may admit any information determined to be pertinent and the committee shall have access to any available information relevant to the dispute; however, all documentary information must be provided to the committee 48 hours prior to the commencement of the hearing. All material(s) submitted as evidence shall be retained by the committee until its final report is complete.

Grievance proceedings are confidential. Members of the grievance committee, parties, and witnesses shall maintain strict confidence concerning all aspects of the grievance process. Any breach of confidentiality, which in the judgment of the committee compromises or substantially affects the process, may result in a committee decision to terminate the grievance process. In this event, the committee shall advise the Chair of the Faculty Association as to whether or not another grievance committee should be formed to hear the case.

Report of the Grievance Committee

Upon the conclusion of the grievance hearing, the grievance committee shall deliberate and recommend whether to sustain all or any part of the grievance. The chair of the committee shall be present during the committee's deliberations and may instruct the committee regarding its jurisdiction and other grievance-related matters. The chair may participate in the discussions but may vote only to break a tie.

The committee's recommendation must be based solely on material presented in the grievance hearing. The burden is on the Grievant to establish by a preponderance of the evidence that the

Grievant has experienced an injury that would entitle the Grievant to relief and that such injury is remediable.

The chair of the grievance committee shall be responsible for ensuring that a written report of the committee's findings and recommendations is prepared. The report should state a separate finding for each particular issue of the grievance, resolve the material issues of fact that have been disputed, and provide a recommendation for disposition of the grievance. Prior to finalizing the report, the chair will provide a copy of the report to members of the committee for review, comment, and approval. Any member who does not concur in the report may submit a separate minority report, which shall be appended to the committee's report. The report shall be submitted to the Chair of the Faculty Association and the VPAA within ten (10) days of the close of the hearing.

The grievance committee may write a separate report to the Chair of the Faculty Association and the VPAA recommending any changes within the University that might prevent similar grievances in the future, or any proposed improvements in the grievance procedure.

Response of the VPAA to the Report of the Committee

Upon receipt of the grievance committee's report, the VPAA will decide the appropriate course of action to resolve the grievance. In considering the committee's report, the VPAA may, with proper respect for confidential matters, share parts of the report with appropriate administrators (other than parties or witnesses) for their advice. If the VPAA's decision rejects any of the findings or recommendations of the committee, the VPAA shall notify the committee members in writing, with copies to the parties and to the Chair of the Faculty Association, giving his/her specific reasons for not accepting the committee's findings or recommendations. The VPAA shall provide the opportunity for the committee and parties to respond to the VPAA's decision.

The VPAA shall notify the Grievant of the final decision by certified return-receipt requested mail within five (5) days after receipt of the committee's report. Copies of the decision shall be sent to the Respondent, the grievance committee, and the Chair of the Faculty Association. Upon receipt of the VPAA's final decision, the grievance committee will have completed its work and shall be officially discharged in writing by the Chair of the Faculty Association. If the grievance has been filed against the VPAA or a member of the VPAA's Office, the responsibilities of the VPAA described above shall be filled by the President.

Records of the Grievance Proceeding

Once the final decision has been delivered to the Chair of the Faculty Association, or a grievance is terminated, committee members shall submit all documentation within their possession regarding and/or in any way related to the hearing to the committee chair, who will forward such material to the Chair of the Faculty Association. The Chair of the Faculty Association shall seal all the documents related to the grievance and turn them over to the Secretary of the Faculty Association for appropriate locked storage in the library with other Faculty Association documents.