

## **Operating Procedures for Resolving Faculty Grievances**

These procedures supplement the policy on [Faculty Grievances \(I.B.1\)](#). Refer to the policy for contact information and applicable definitions.

Effective Date: September 14, 2020

### **RESOURCES AND TRAINING**

The offices of the Provost at the West Lafayette campus and the Vice Chancellors for Academic Affairs at the Regional Campuses will provide procedural consultation and resource materials as well as arrange training sessions for individuals participating on either the Faculty Mediation Committee or a Grievance Hearing Panel on such topics.

### **INFORMAL GRIEVANCE RESOLUTION PROCESS**

Conflicts frequently can be resolved if the parties involved communicate their concerns, listen to each other, and show a willingness to compromise and/or change. Often conflicts can be lessened, if not eradicated, by clearing up misperceptions and misunderstandings. Faculty members are strongly encouraged to try to take care of their employment-related concerns in this manner.

The Informal Grievance Resolution Process is designed to empower the parties to a Grievance to reach a mutually satisfactory agreement.

To begin the Informal Grievance Resolution Process, the Initiator must File a written statement of concerns with the Vice Provost for Faculty Affairs or Vice Chancellor for Academic Affairs, as the case may be, within 30 Days from the date in which the Initiator first knew, or could reasonably be expected to know, of the alleged violation or within 30 Days from the most recent incident in a series of related incidents. The letter must include:

1. A description of the alleged impropriety, including the date it occurred and/or the date the Initiator became aware of the occurrence;
2. The University policy, procedure, standard, or established practice allegedly misinterpreted or violated if the concern is procedural in nature;
3. The name(s) of the person(s), if known, responsible for the alleged impropriety; and
4. The remedy sought.

Upon receipt of the statement, the Vice Provost for Faculty Affairs or Vice Chancellor for Academic Affairs, as the case may be, will review the Grievance and determine whether the Grievance is timely and whether the matters cited in the Grievance are covered by policy I.B.1. Within 10 Days, the Vice Provost or Vice Chancellor will notify the Initiator in writing whether the Grievance will proceed further.

In the event it is determined that the Grievance will not proceed further, the Initiator may appeal such determination to the Provost or the Chancellor, as the case may be. The appeal must be in writing and Filed within 10 Days of the issuance of the determination not to hear the Grievance. Decisions not appealed within the time limit are deemed final.

In the event that a Grievance will proceed further, the chair of the campus Faculty Mediation Committee will appoint one of its members (the Mediator) to assist the parties in resolving the Grievance. The Mediator does not act as the representative of either party and does not render any conclusions, determinations, or judgments with respect to the matter in dispute. Rather, the Mediator's sole role is to assist the parties in arriving at a resolution of the dispute that is acceptable to both the Initiator and the Respondent(s). All matters discussed during the Informal process are confidential, cannot be broadcast outside of the process, and cannot be used as evidence in any subsequent Formal Resolution process, unless those matters were otherwise known by or available to the Initiator and Respondent(s) prior to the Informal process.

The Informal Grievance Resolution Process will be concluded by one of the following:

1. A decision by the Initiator to stop further action on the Grievance,
2. A resolution of the Grievance by agreement of the parties, or
3. Expiration of the time period allowed for the Informal Grievance Resolution Process.

The Informal Grievance Resolution Process must be concluded within 30 Days from the appointment of the Mediator unless the parties mutually agree to extend the time for conclusion of the Informal Grievance Resolution Process, provided, however, that it is not extended more than 10 additional Days.

Within 10 Days following the conclusion of the Informal Grievance Resolution Process, the Mediator must complete and submit to the chair of the appropriate campus Faculty Mediation Committee an Informal Grievance Status Report Form. Copies of the form will be sent to the Initiator and Respondent(s).

## **FORMAL GRIEVANCE RESOLUTION PROCESS**

Before beginning the Formal Grievance Resolution Process, an Initiator must try to resolve the Grievance through the Informal Grievance Resolution Process.

To initiate the Formal Grievance Resolution Process, an Initiator must File a Notice with the Vice Provost for Faculty Affairs or the Vice Chancellor for Academic Affairs, as the case may be, no later than 10 Days after receiving notification of the outcome of the informal proceedings. If the Vice Provost or Vice Chancellor is a party to the Grievance, the Initiator must send the Notice to the Provost or the Chancellor, as the case may be, who will designate another University Faculty member or academic administrator to perform the Vice Provost or Vice Chancellor's duties assigned in this Formal Grievance Resolution Process.

The Notice must include all of the following and cannot contain any new concerns or complaints:

1. A statement of the alleged impropriety that was not resolved informally,
2. A description of the facts giving rise to the Grievance,
3. The remedy sought, and
4. Copies of all documents concerning the Grievance that the Initiator sent or received during the Informal Grievance Resolution Process.

Upon receipt of the Notice, the Vice Provost for Faculty Affairs or Vice Chancellor for Academic Affairs, as the case may be, will review the Grievance and determine whether the Initiator attempted to resolve the Grievance under the Informal Grievance Resolution Process and whether the Notice is timely.

In the event it is determined that the Grievance will not proceed further, the Initiator may appeal such determination to the Provost or Chancellor, as the case may be. The appeal must be in writing and Filed within 10 Days of the issuance of the determination not to continue with the Grievance. Decisions not appealed within the time limit are deemed final.

In the event that a Grievance will proceed further, the Vice Provost or Vice Chancellor will forward a copy of all materials received from the Initiator to the Respondent(s) whose alleged actions or decisions are the basis for the Grievance. Respondents must furnish a written response summarizing their position on the matter within 10 Days. The Vice Provost or Vice Chancellor also will provide written notice to the appropriate department head and dean (if not a Respondent) of the existence of the Grievance, including the names of the Initiator and the Respondent(s).

Upon receipt of the response(s) from the Respondent(s), the Vice Provost or Vice Chancellor will forward a copy of the materials received from the Respondent(s) to the Initiator and copies of the material received from the Initiator and the Respondent(s) to the chair of the campus Grievance Hearing Committee.

An impartial Grievance Hearing Panel of three persons will be drawn from the Grievance Hearing Committee's membership based on the following criteria:

1. No one who is in the same academic program, section, division, or department as the Initiator or the Respondent(s) or who has a conflict of interest with either party may serve on a panel.
2. Prospective panel members may withdraw from consideration if they have a scheduling conflict with an out-of-town commitment or served on another hearing panel that semester.
3. The Initiator and the Respondent each may exclude up to three members from the Grievance Hearing Committee as prospective panelists.
4. If additional panelists are needed, the chair of the Grievance Hearing Committee will inform the Vice Provost or Vice Chancellor accordingly, who will randomly select the

number of additional Faculty needed to constitute a panel from either the voting Faculty at that campus or from members of another campus Grievance Hearing Committee. Selected panelists must meet all the criteria stated above. In addition, they may choose to withdraw from further consideration for the reasons noted above.

5. The chair of the panel, selected by the panel from its membership, must be a tenured Faculty member. The chair will be responsible for conducting hearings, meetings, and issuing all communication on behalf of the panel.

### **Grievance Hearing Proceedings**

At any time before the hearing, the Initiator may withdraw the Grievance. Once the hearing begins, however, the Grievance may be withdrawn only under the following conditions: (1) the Initiator decides to withdraw the Grievance, (2) the Respondent(s) agree to provide the remedy sought by the Initiator in the Grievance Notice, or (3) both the Initiator and the Respondent(s) agree to withdraw the Grievance for another reason. Hearings will commence no later than 20 Days after a panel is constituted and will be open only to the participants, unless both the Initiator and the Respondent(s) request otherwise.

The order in which the various elements of the hearing described below occur is determined by the panel. The panel also may set reasonable time limits in which these elements must be completed. The determined order of the hearing and the time limits, if the panel chooses to set them, must be sent to both the Initiator and the Respondent(s) at least five Days prior to the hearing.

The Initiator and the Respondent(s) may each invite up to two Faculty or staff colleagues from their campus to serve in an advisory capacity. Advisors can be present throughout the hearing to provide support and advice to their advisee and/or to observe the proceedings. However, they may not provide testimony, make statements, or otherwise participate in the hearing.

Both the Initiator and the Respondent(s) may present oral and written statements, question each other, introduce Witnesses, and question all Witnesses. Witnesses may be present at the hearing only when they are making a statement or being questioned. An Advisor may not also be a Witness, nor may a Witness be an Advisor.

The panel may question all participants speaking at the hearing as well as ask for additional information. The panel also may call and question Witnesses. In addition, the panel may stop the presentation of information it deems irrelevant to the allegations. No new allegations may be introduced into the hearing.

All panel members, participants, and Advisors must respect the confidentiality of the information and records introduced into the hearing.

An audio recording will be made of the hearing and kept in the Office of the Provost or Vice Chancellor for Academic Affairs, as the case may be. The panel, the Initiator, the Respondent, the Vice Provost for Faculty Affairs, the Chancellor, and any designee of such University officers may use the recording to review the proceedings. A written transcript will not be provided.

The panel's recommendation must be based solely on information made available to both the Initiator and the Respondent(s) during the course of the Grievance. If additional information is received by the panel outside the hearing, it must be shared with both parties to the Grievance prior to the hearing, and each must be given a reasonable opportunity to respond in writing.

The panel will conduct the hearing as expeditiously as possible. After the proceedings have concluded, the panel will meet in executive session and determine by majority vote whether or not a preponderance of the evidence presented supports the allegations made by the Initiator that the substance of a decision or action was unfair or wrong or that an action was taken or a decision was made in a manner that violated a University policy, procedure, standard, or established practice.

Within 15 Days after completion of the Hearing, the panel will report its findings, conclusions, and recommendations in writing to the Vice Provost for Faculty Affairs or Vice Chancellor for Academic Affairs, as the case may be (or other official designated in accordance with these procedures). Copies of the report also must be sent to the Initiator and the Respondent(s).

The Vice Provost for Faculty Affairs or Vice Chancellor for Academic Affairs (or other official designated in accordance with these procedures), as the case may be, will make a determination on the outcome of the Grievance following review and consideration of the findings, conclusions, and recommendations of the Grievance Hearing Panel. The determination will be announced in writing to the Initiator, the Respondent(s), the appropriate unit head, and the members of the panel within 10 Days of receipt of the panel's recommendation.

If the Vice Provost or Vice Chancellor took part in the hearing or was a party to the Grievance, the Provost or Chancellor, as the case may be, must either render and announce the determination or appoint another University Faculty member or academic administrator not associated with the Grievance to do so. If the Provost or Chancellor participated in the hearing or was a party to the Grievance, the President must appoint another University Faculty member or academic administrator not associated with the Grievance to make and announce the determination.

## **APPEAL PROCESS**

The Initiator and the Respondent(s) each have the right to appeal the determination made by the Vice Provost for Faculty Affairs or Vice Chancellor for Academic Affairs, as the case may be, to the Provost or Chancellor, as the case may be. Such appeal must be in writing and Filed within 10 Days of the issuance of notification of the determination with all supporting materials attached. Decisions not appealed within such time are deemed final.

If the Provost or Chancellor participated in the hearing or was a party to the Grievance, the President must appoint another University Faculty member or academic administrator not associated with the Grievance to accept and decide the appeal.

The Provost or Chancellor (or designee) must make a determination on the appeal within 10 Days. Such determination will be communicated in writing to the Initiator, the Respondent(s), the members of the Grievance Hearing Panel, and the Vice Provost for Faculty Affairs or Vice

Chancellor for Academic Affairs who made the determination regarding the Grievance. The written determination concerning the appeal constitutes the University's final action.

## **HISTORY AND UPDATES**

September 14, 2020: Separated these procedures from the policy on Faculty Grievances (I.B.1). Moved the gatekeeping process to the beginning of the Informal Grievance Resolution Process section from the beginning of the Formal Grievance Resolution Process. Added a description of the Mediator's role.