


**Memorandum**

To: Judith Lothian, Ph.D.  
Chair of the Faculty Senate

From: Karen E. Boroff, Ph.D.   
Interim Provost and Executive Vice President

Re: Revision of the *Faculty Guide* Article 14  
(Grievance Policy)

Date: March 16, 2018

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The Office of the Provost received a copy of the Faculty Senate's approval of the new Grievance Policy on November 3, 2017. This policy, which was initiated by the Faculty Grievance Committee and reviewed by the Faculty Guide Committee, has been the subject of extended conversations and revisions over the past year. To achieve this stage, negotiations required persistence and commitment among Senate's representatives and members of the Provost's team to reconcile different viewpoints. Therefore, the final review has taken some time.

As a result of examining details and studying how the newly proposed Informal Conciliation Process would be implemented, we have made some minor changes and clarifications to the November proposal. These changes have been reviewed and approved by the Faculty Grievance Committee of the Senate and Office of the Provost. I am pleased with the result of this collaboration.

Among the changes to Article 14, the most significant is the addition of an Informal Conciliation Process. Faculty, who are willing to participate in the process as conciliators, will require training arranged by the Office of the Provost. This process is part of an overall strategy to facilitate resolution of disputes at the lowest possible level, with the parties acting in good faith.

Attached: Final Version 2/12/2018

## ARTICLE 14

### 14.1 Introduction and Definitions

- a. A grievance is a formal allegation that a violation of the Faculty Guide or other applicable University policy has taken place. If based upon a violation of a University policy other than the Faculty Guide, such policy must have been adopted in written form through faculty governance procedures and made available to all to whom it applies.
- b. Allegations of discrimination, harassment, retaliation (including against whistleblowing), sexual misconduct, or violation of other federal and state laws are handled through the Office of Compliance and Risk Management, or other appropriate University offices, and are not the subject of the grievance process under this Article. Alleged violations of University policies outside the Faculty Guide may be addressed through the Grievance Process only if the alleged violations concern failure to follow applicable procedures under that policy.
- c. Grievances may be filed by faculty members in academic units governed by the Faculty Guide as specified in the preamble to Article 1. A person filing a grievance shall be referred to herein as the “grievant.” Grievances may be filed only against other faculty members, department chairs, committee chairs, deans, the Provost and the University President. Such a person when the subject of a grievance shall be referred to herein as the “respondent.” Grievances against subordinate administrators shall be filed against the chief administrator of the immediate unit in which they serve. For purposes of this Grievance Process, in cases where the entire committee is being grieved, the respondent shall be the committee chair or, if there is no chair, the person who convened the committee.
- d. The authority of this Grievance Process and the Faculty Grievance Committee is limited to whether a violation of the Faculty Guide or applicable University policy has occurred. This includes-grievances concerning the process for the following: appointments, reappointments, tenure, contract renewal, promotion, dismissal, sabbaticals, leaves, reductions in rank or force, job evaluations, assignments and reassignments. Nothing in this provision precludes other means of appeal listed in the Faculty Guide (e.g., Articles 6.1.b.6 and 5.1.n).
- e. The Grievance Process protects the rights of all parties involved. Any form of retaliation against, or coercion of, an individual who files or is a respondent in a grievance, provides evidence in a grievance investigation or serves on the grievance committee, is strictly prohibited. Such forms of retaliation or coercion can lead to further disciplinary sanctions, independent of the grievance itself.

- f. All time intervals listed below for the fulfillment of specific steps in this Article refer to calendar days excluding University holidays. If a time limit for acting under this Article falls on a weekend or University holiday, the time limit shall be extended to the next University business day.
- g. The procedures set forth in this Article 14.1 and Articles 14.2 through 14.7 shall be known collectively as the “Grievance Process”. The term “Informal Conciliation Process” refers to the procedures set forth in Article 14.2 and 14.3. The term “Grievance Procedure” refers to the procedures set forth in Article 14.4 through 14.7.
- h. The Grievance Process is intended to facilitate the resolution of disputes at the lowest possible level, with the parties acting in good faith.

#### 14.2 Informal Conciliation Process – The Panel of Conciliators

- a. Before a formal grievance may be filed, the Informal Conciliation Process, aimed at reconciling the opposing sides, must be undertaken.
- b. For the purpose of conducting the Informal Conciliation Process a panel of conciliators shall be convened. The panel shall consist of five (5) tenured full-time faculty members serving in the Colleges covered by this Article. No College covered by this Article should ordinarily have more than one (1) person serving as a conciliator. Conciliators shall serve for the full year on a volunteer basis without compensation and may be reappointed for subsequent terms.
- c. No later than June 1st, the Chair of the Faculty Senate shall submit to the Provost for confirmation a roster of proposed conciliators, which the Provost shall review and return to the Chair of the Faculty Senate within thirty (30) days after receipt. If the Provost deems a proposed conciliator unacceptable for any reason, the Senate Chair shall nominate a replacement and resubmit the revised roster to the Provost for review and confirmation in accordance with this Article 14.2(c)
- d. Before engaging in the Informal Conciliation Process, conciliators shall receive no less than two (2) hours of training in mediation practices to be arranged and funded through the Provost’s office.
- e. Once the panel of conciliators is confirmed by the Provost in writing, the Chair of the Faculty Senate will convene the panel to review procedures. The panel will elect a lead conciliator who will coordinate the work of the panel. The name of the lead conciliator will be made public by the Faculty Senate along with instructions for initiating the Informal Conciliation Process.
- f. All materials associated with the Informal Grievance Process are considered confidential and conciliators and the Faculty Grievance Committee have a duty to keep such material confidential; however, a violation of confidentiality in and of itself shall not serve as grounds to invalidate a grievance.

#### 14.3 Informal Conciliation Process -- Procedures

- a. The Informal Conciliation Process must be invoked within forty-five (45) days of the occurrence or discovery (whichever is later) of the events giving rise to the grievance.
- b. A faculty member wishing to initiate the Informal Conciliation Process must submit to the lead conciliator a "Request for Informal Conciliation" ("Request") on a form provided for this purpose by the Faculty Senate and available on its website. If a group of faculty members has been adversely impacted in an identical manner by an alleged violation of the Faculty Guide or university policy, they may constitute themselves as a group and submit a single request.
- c. Upon receipt of a Request for Informal Conciliation the lead conciliator will, within three (3) days, assign the request to a member of the panel of conciliators and provide a copy of the Request to the respondent. Whenever possible conciliators are to be assigned from outside the College in which the dispute has arisen.
- d. Within seven (7) days of the lead conciliator receiving the Request, the assigned conciliator shall meet with the parties directly involved in the dispute, specifically the individual or group initiating the process and the person against whom the process is directed. The conciliator should ordinarily arrange a meeting of the two sides in which both shall have the opportunity to express their positions and seek a resolution. The assigned conciliator may conduct additional meetings in an effort to resolve the dispute. In the extraordinary event that either party refuses to participate in a face-to-face meeting, the conciliator shall fully communicate each party's position to the opposing side and seek a resolution of the dispute.
- e. The conciliator shall listen to the viewpoints expressed by the parties to the dispute but will neither engage in an independent investigation nor render a decision or recommendation in favor of one side or the other. The conciliator will keep no permanent records of the dispute nor divulge information about its content to anyone beyond the parties directly involved.
- f. Within fourteen (14) days of receiving the Request, the conciliator shall inform the lead conciliator whether a resolution has been attained. No further information regarding the substance of the dispute or the conciliation shall be reported. If necessary, an additional seven (7) days may be granted by the lead conciliator to complete the process. If a resolution has not been reached at the end of this period, the Informal Conciliation Process shall be considered completed and the lead conciliator shall so notify the parties in writing. If the faculty member who initiated the Informal Conciliation Process wishes to file a formal grievance, the faculty member will attach to the grievance form the written notification of completion of the Informal Conciliation Process.

#### 14.4 Grievance Procedure: Initiating a Grievance

- a. A grievance is filed using a form developed jointly by the Provost and Chair of the Faculty Senate. Any changes to the form must be agreed upon by both the Provost and the Chair. The form is obtained from the Provost's Office and is simultaneously (a) filed with the Chair of the Faculty Grievance Committee and (b) provided to the respondent and to the respondent's immediate administrative supervisor. In the case of a grievance against the President, the grievance shall be filed with the Chair of the Faculty Grievance Committee and provided to the

President. If the grievance is against the President, the reference to “respondent’s supervisor” shall not apply. On the form, the grievant must indicate the specific article of the Faculty Guide and/or applicable University policy that the respondent is alleged to have violated.

- b. A grievance must be filed within fourteen (14) days of the completion of the Informal Conciliation Process outlined in Article 14.3. After filing, the grievant may withdraw a grievance at any time by so informing the Chair of the Faculty Grievance Committee, the respondent, and the respondent’s supervisor in writing.
- c. Upon receiving a grievance, the Faculty Grievance Committee must, within a period of fourteen (14) days, determine whether the actions alleged in the grievance fall within the scope of the Faculty Guide or applicable University policy and therefore may serve as a basis for a grievance. The Committee shall communicate in writing to the grievant, the respondent, the respondent’s immediate supervisor and the Provost (unless the President is the respondent) whether or not it intends to consider the grievance. During this initial fourteen (14) day period, the Faculty Grievance Committee may only investigate its authority to determine the alleged violation.
- d. During this same fourteen (14) day period, the immediate supervisor may take any actions he or she deems appropriate in order to resolve the grievance. The grievance is considered resolved when the grievant submits a written request to withdraw the grievance under Article 14.4(b).
- e. If by the end of the fourteen (14) day period a resolution has not been reached and the Faculty Grievance Committee has determined that it has authority to consider the grievance, the Grievance Investigation shall begin.

#### 14.5 Grievance Procedure: The Grievance Investigation

- a. Within a period of thirty (30) days following the determination set forth in Article 14.4.e, the Faculty Grievance Committee will conduct and complete an investigation (the “Grievance Investigation”) to determine whether the allegations in the grievance are factually correct and constitute a violation of the Faculty Guide or other applicable university policy.
- b. The Grievance Investigation shall be conducted as specified in the bylaws of the Faculty Grievance Committee. All parties to the grievance shall be provided with the bylaws at the start of the Grievance Investigation. All materials associated with the Grievance Investigation, including testimony, written information presented to the committee, and committee deliberations are considered confidential and members of the Faculty Grievance Committee have a duty to keep such material confidential; however, a violation of confidentiality in and of itself shall not serve as grounds to invalidate a grievance.
- c. The Grievance Investigation shall consist primarily of hearings conducted by the Faculty Grievance Committee. At a minimum, the Faculty Grievance Committee will hear testimony from both the grievant and respondent such that both have equal opportunity to present their positions and respond to questions. The Faculty Grievance Committee may also invite individuals thought to have information of direct relevance to the alleged violations, or whose testimony may assist committee members in understanding the issues at stake. All members of the University community are expected to cooperate in all aspects of a Grievance Investigation.

- d. No one will be permitted to bring legal counsel to a grievance hearing. However, parties asked to give testimony may be accompanied to the hearing by a support person and that person may provide assistance to the person that they are accompanying, as necessary (and only when that person is present). The Faculty Grievance Committee will only recognize the individual invited to testify.
- e. The grievant and the respondent may provide the Faculty Grievance Committee with whatever documentation they feel is necessary to explicate and substantiate their claims. In addition, the Faculty Grievance Committee may request specific written materials thought to have direct bearing on the facts of the investigation from the grievant, the respondent, or from other individuals. Both the grievant and respondent have the right to see all the materials submitted to the Faculty Grievance Committee.
- f. It is expected that the Faculty Grievance Committee will conclude its investigation and present a written report summarizing its findings within thirty (30) days after initiation of the Grievance Investigation. If more time is needed, the Faculty Grievance Committee Chair may obtain an automatic extension of seven (7) days by informing the Provost and the Faculty Senate Executive Committee. If more time is needed the Faculty Grievance Committee Chair may request an additional extension but must provide a written explanation to the Provost and the Executive Committee of the extenuating circumstances that necessitate the extension as well as an anticipated completion date. If both the Provost and the Executive Committee agree, the extension will be allowed.

#### 14.6 The Grievance Report

- a. Upon conclusion of the Grievance Investigation, the Faculty Grievance Committee shall produce a written report stating its findings, in accordance with the timeframe in Article 14.5(f). The report shall include a summary of the grievance, which shall include an explanation of the Faculty Grievance Committee's jurisdiction over the grievance, a reference to the specific violation of the Faculty Guide or other University policy, an indication that the Informal Grievance Process was completed, an account of the Grievance Investigation, a clear statement as to whether a violation was identified, and, if so, recommended measures of redress. Within ten (10) days of receiving the Committee's report, both the grievant and the respondent have the right to add a short statement explaining their disagreement with any factual errors or discrepancies in the Faculty Grievance Committee's report.
- b. The Grievance Report must be approved by a majority of the members of the Faculty Grievance Committee in accordance with the procedures stipulated in the Faculty Grievance Committee's bylaws.
- c. Upon approval, the Grievance Report shall immediately be sent to the grievant, the respondent, the respondent's immediate supervisor, the Provost (unless the grievance is against the President), and the Chair of the Faculty Senate. A copy of the report shall be preserved in the Faculty Senate's electronic repository where it may be accessed by the Senate Executive Committee and the Chair of the Faculty Grievance Committee.

- d. Within fourteen (14) days of receiving the Grievance Report, the respondent's supervisor (or, if the respondent is the President, the President) must present a response indicating acceptance or rejection of the findings of the Report and specifying the actions to be taken (if any) in response to the grievance, to the extent appropriate and consistent with privacy rights. The response must be provided to the grievant, the respondent, the Provost (unless the respondent is the President), and the Chair of the Faculty Grievance Committee. The supervisor of the respondent (or, if the respondent is the President, the President) is not obliged to follow the Faculty Grievance Committee's recommendations, but if a different course is taken an explanation should be provided in writing to the grievant, the respondent, the Provost (unless the respondent is the President), and to the Chair of the Faculty Grievance Committee.

#### 14.7 The Appeal Process

- a. A grievant who is dissatisfied by the response of a supervisor to a Grievance Report may appeal the decision up the administrative hierarchy: from Department Chair to the Dean, to the Provost, and then to the President. The appeal must be filed at each level within fifteen (15) days of the receipt of the decision at the previous level. At each stage the grievant shall submit a short statement explaining the basis(es) of the appeal along with the decision being appealed, the Grievance Report, and the initial grievance form. The individual receiving the appeal shall provide a written response stating clearly whether the decision is upheld or struck down within twenty-one (21) days after receiving the appeal. Any decision issued by the President shall be considered final and may not be appealed. If the grievance is against the President, there is no appeal.