

## FACULTY HANDBOOK

### III. FACULTY POLICIES AND PROCEDURES

#### G. FACULTY GRIEVANCE CODE (2011)

*Approved by the Faculty Senate on May 17, 2011.*

*Approved by the President and Board of Directors on October 5, 2011.*

## INTRODUCTION

This code provides the procedures under which a faculty member believing himself or herself aggrieved by department, school or administrative action described herein is able to seek a remedy within the University. The faculty member is obliged to exhaust these procedures with regard to any grievance covered by this Code before pursuing remedies outside the University.

### A. APPLICABILITY

For purposes of this Code, faculty members are defined as all part-time and full-time tenured, tenure eligible and non-tenure eligible, persons who are appointed by the University as faculty to teach and/or conduct scholarly research, and librarians of professional rank.

University administrators and staff, however, are not covered by the Code, except that any such person may invoke the Code if, in his or her capacity as an individual faculty member (and not because of any action or omission in his or her administrative or staff capacity) he or she is subjected to any of the disciplinary actions listed in Sections B.1 through B.7 of this Code. Specifically, for example, no such person is entitled to grieve the decision of the University to terminate his or her administrative or staff appointment.

Similarly, trainees (e.g., graduate students, post-doctoral fellows, research associates, clinical interns, residents and fellows) and employees of MedStar Health or other non-University entities are not covered by the Code except insofar as they have a faculty appointment and the grievance concerns their faculty appointment. [14]

This Code does not cover conflicts between faculty members, unless the faculty member against whom the grievance is lodged was in that case acting administratively in a manner described by Part B (Grievable Matters).

Resolution of questions concerning which capacity gave rise to the grievance shall be a jurisdictional matter for the Grievance Panel.

### B. GRIEVABLE MATTERS

A grievable matter arises when any of the following department, school or

administrative actions involves a violation of academic freedom or of University procedures or of other faculty rights as set forth, for example, in individual faculty contracts, the Faculty Handbook, AAUP statements adopted by the Board of Directors or other appropriately authorized University documents:

1. Recommendation of dismissal;
2. Suspension;
3. Recommendation of revocation of tenure;
4. Recommendation of reduction of academic rank;
5. Recommendation of reduction of individual salary;
6. Denial of tenure or promotion or reappointment;
7. Any other action that significantly harms the faculty member in his or her professional capacity as a faculty member.

In general, this Code does not cover the merits of refusal of tenure, promotion or reappointment. It does, however, require that the rules and regulations applicable to the grant or refusal of tenure or promotion or reappointment promulgated in the current issue of the Faculty Handbook and in other relevant University publications be fully complied with and administered fairly. This Code also covers situations where tenure or promotion or reappointment is denied for reasons that allegedly involved a violation of academic freedom.

This Code also does not cover allegations of discrimination (including discrimination in the denial of tenure, promotion, or reappointment), which are handled by the Office of Institutional Diversity, Equity, and Affirmative Action (IDEAA). (See Section IVA: *Affirmative Action Grievance Procedures*.) If discrimination is alleged at any point in a grievance proceeding under this Code, the Grievance Committee Chair shall notify and consult with the Vice President for Institutional Diversity and Equity. Based on such consultation, the Grievance Committee Chair shall determine the order of proceedings as between this Code and IDEAA's procedures. Generally, only one process will proceed at a time, and IDEAA's process will proceed first. However, if the Vice President for Institutional Diversity and Equity and the Grievance Code Committee Chair both agree that an exception is in order, then the two grievance procedures may proceed simultaneously.

### C. NOTICE OF PROPOSED DISCIPLINARY ACTION

The following disciplinary actions - dismissal, suspension without pay, revocation of tenure, reduction in rank and reduction in salary - shall take effect only if the administrative officer of the University who intends to take such action gives to the faculty member affected by the proposed action written notice of the action at least fifteen days [15] in advance of its effective date and only if the faculty member affected by the proposed action does not invoke the procedures of this Code. Such notice shall be confidential unless confidentiality is waived by the faculty member affected by the

proposed action. A faculty member may, however, be summarily suspended with pay if the functioning of the University is impeded by his/her actions. Such suspension with pay shall be carried out only by the President of the University or by the appropriate Executive Vice President.

#### D. COMPOSITION OF UNIVERSITY GRIEVANCE CODE COMMITTEE

The University Grievance Code Committee shall consist of seventeen tenured members of the faculty, seven from the Main Campus of the University and five from each of the Medical and Law Center campuses of the University. Tenured faculty members simultaneously serving as administrators are not eligible for appointment to or continuing service on the Committee. The Faculty Senate shall elect nine members and the University President shall appoint eight members. The normal term is three years, but members of the Committee are eligible for reelection or reappointment for an unlimited number of terms, and Committee members serving on a Grievance Panel at the expiration of their term or terms shall continue to serve until that Panel has completed its consideration of that particular grievance, including any remand thereof. Terms commence on July 1st and expire on June 30th. The President of the Faculty Senate shall appoint, from the members of the Committee, a Chair and a Vice Chair of the Committee to serve three year terms each. The Senators from each campus shall designate a total of six tenured faculty members (two from the Main Campus, two from the Medical Center Campus and two from the Law Center Campus) to act as an alternate source of members of any Grievance Panel. These members will be used only if the requisite number of panelists from the Committee are not available in a particular case. Members shall serve on this alternate list for a three year period. The names will be submitted to the Chair of the Committee by July 1 of each year.

When in the judgment of the Committee Chair the volume of Committee work demands, he or she may request the designation, in such even number as he or she sees fit, of additional alternate members of the Committee, such designation to be made half by the Faculty Senate President upon the advice of the Faculty Senate caucus of the campus or campuses to which the request is submitted, and half by the Executive Vice President of such campus or campuses. Alternates thus designated shall serve only during the University fiscal year during which they are appointed, provided that, if any is serving on a Grievance Panel at the end of that fiscal year, he or she shall continue to serve until that Panel has completed its consideration of that particular grievance, including any remand thereof. Alternates designated under this procedure shall be, as in the case with previously authorized alternates, from the ranks of tenured faculty. Alternates selected in either of the ways described above have the same rights and duties as a regular Committee member to participate and vote in full Committee proceedings with regard to the decision of a Panel on which the alternate has served.

The President of the University shall convene the Grievance Code Committee at least once a year to give the full Committee its charge.

## E. CONFIDENTIALITY REQUIREMENT

Unless confidentiality is waived in writing by the grievant, members of the Committee and participants in all proceedings of this Code shall make every effort to maintain the confidentiality of the proceedings, but a breach of confidentiality will not invalidate the proceedings. The confidentiality requirement also applies to any communications at any time between the President of the Faculty Senate, or any conciliator (see section G2), and the parties to the grievance

## F. ADMINISTRATIVE PROCEDURES

The University Grievance Code Committee shall establish operating procedures necessary to implement the code. The procedures include the following:

1. The Committee shall establish a hierarchy of members in the order of precedence to act in the absence of the Chair of the Committee.
2. The President of the Faculty Senate shall similarly designate one or more Senate Vice Presidents to act in his or her absence.
3. Subject to the disapproval of the President of the Faculty Senate the Chair of the Committee shall have discretion, before the expiration of the time limits set by the Code or within ten days thereafter, to enlarge the time or times within which action must be taken under this Code if in his/her judgment such extension of the time is appropriate, as, for example, when Committee members are unavailable due to holiday recess. It shall be the responsibility of the Chair to notify all parties affected by any enlargement of the time granted under this section. Nothing in this set of provisions gives the grievant or respondent a cause of action should the Grievance Committee or Grievance Panels fail to act within applicable time limits under this Code.
4. The Committee shall establish any procedures to the extent not defined by this Code such as, but not limited to, balloting, quorum, and time frame of activities. The Committee shall also define any terms not defined in this Code and shall establish any other guidelines to protect equitably the interest of the grievant and the University. The Committee shall file its operating procedures with the President of the Faculty Senate.
5. When a grievance proceeding ends, the Chair shall forward the file to the Secretary of the University so that the University may maintain a record of proceedings. The file consists of all written evidence and documentation, including recordings and transcriptions used by any Panel or the Committee in connection with the proceeding, except documents generally circulated, such as

the Faculty Handbook. The University Secretary shall keep the contents of the file confidential.

## G. GRIEVANCE PROCEDURE

### 1. Filing Procedure.

- a. Notice of Grievance. A current or former faculty member who believes that he/she has a grievance shall file a "Notice of Grievance" with the President of the Faculty Senate within 30 days after he or she is notified of the action that gives rise to the grievance. The Notice of Grievance shall contain a concise statement of the reasons that lead the faculty member to feel aggrieved, and shall include the name of the administrator whose action has given rise to the grievance.

The President of the Faculty Senate has the discretion to begin the 30 day filing period when the faculty member discovers or reasonably should have discovered the action that gives rise to the grievance.

It is the responsibility of the grievant to properly file his or her grievance within the specified time frame. If the Senate President decides that the 30 day deadline has been exceeded, the faculty member can appeal the decision to the Chair of the Grievance Committee, whose decision regarding the timeliness of the grievance is final.

To qualify as a "former faculty member" eligible to file a grievance, the grievant must have been a faculty member under contract at the time the events occurred that constitute the grievable matter. Grievances may be filed and/or completed after the grievant's contract expires if the filing is within the 30 day deadline. [16]

Should the Senate officers be unavailable, the faculty member may file the Notice of Grievance with the Secretary of the University, who shall forward it as soon as possible to the appropriate Senate officer. In any case a copy of the Notice of Grievance shall also be forwarded by the official receiving it to the appropriate Executive Vice President, or, if that Executive Vice President will be a respondent, to the University President. If the University President is a Respondent, the Notice of Grievance shall be forwarded to an Executive Vice President selected by the President of the Faculty Senate from a campus other than the one on which the grievance arose.

- b. Respondent. The respondent is the administrative officer whose action gives rise to the grievance. If that officer has been replaced, the respondent is his or her successor in office. If more than one administrative officer was

responsible for the action, all current office-holders may be named as respondents.

The President of the Faculty Senate shall determine at the outset whether the named respondents are all “properly named respondents,” i.e., whether each is a properly named party in the action giving rise to the grievance.

- c. Letter of Intent. When negotiations between the grievant and the respondent are pending or other circumstances suggest that formal initiation of the grievance procedure would best be deferred in the interest of all concerned, the grievant, at the discretion of the President of the Senate can satisfy this filing requirement by filing a letter of intent with the President of the Faculty Senate within the same 30 day period indicating an intent to file a formal grievance. The President of the Senate will notify the grievant if the request to defer filing has been granted. If the dispute is not resolved within 25 days after the President's approval of a deferral, the President of the Faculty Senate shall notify the grievant and require him or her promptly to submit the Notice of Grievance unless a further extension is agreed to in writing by both the grievant and the respondent.
- d. Dismissal of Grievance. With the consent of the Chair of the Grievance Code Committee, the President of the Faculty Senate can dismiss a grievance if the grievant is not a person covered by Part A (Applicability) of this Code. Any such dismissal may be appealed to the full Grievance Code Committee following procedures outlined in Section G4. If not thus dismissed the case shall proceed to a conciliation (Section F2).
- e. Subsequent Filings. After the Notice of Grievance, whenever any notice or written submission is filed by the grievant or the respondent, or by any representative on behalf of either of them, with the Chair of either the Grievance Code Committee or the Grievance Panel, a copy of that notice or submission shall be sent simultaneously to all other parties or to representatives acting on their behalf.

## 2. Conciliation.

Within three days after receiving a Notice of Grievance from the grievant or from the Secretary of the University judged to be complete by the President of the Faculty Senate, or as soon thereafter as circumstances permit, the President of the Faculty Senate shall appoint a conciliator who shall attempt to resolve informally the issues that gave rise to the grievance. The conciliator shall be a tenured faculty member of this University drawn to the maximum extent possible from a panel of conciliators established by the Faculty Senate. The conciliator shall meet with the grievant and the respondent, either individually or together. Any such meeting shall be closed and confidential. Advisors for the parties are

not permitted to have any contact with a conciliator during the conciliation process. The conciliation process should proceed expeditiously and should ordinarily be completed within fourteen days after the appointment of the conciliator. The process may be extended, however, if in the judgment of the President of the Faculty Senate, and with the agreement of the parties, special circumstances make such an extension desirable. At the conclusion of the conciliation process, the conciliator shall promptly report in writing the results of the process to the President of the Faculty Senate. This report shall not contain a recommendation on the merits of the dispute, but shall simply state whether or not the dispute has been resolved. If the issues that gave rise to the grievance have been resolved to the satisfaction of the grievant and the respondent, the matter is ended. If the issues have not been satisfactorily resolved, the President of the Faculty Senate shall, within three days of receiving the conciliator's report, inform the Chair of the Grievance Code Committee.

### 3. Initial Review.

- a. Appointment of the Panel. When a grievance has not been resolved by conciliation, the Chair of the Grievance Code Committee shall appoint a Grievance Panel to hear the grievance. The Grievance Panel shall consist of three Committee members, with one from the campus on which the grievance arose and two from outside that campus. If the grievance arose on the Main Campus, the Chair of the Grievance Code Committee may alternatively appoint a Grievance Panel consisting of three committee members, one from the school from which the grievance arose, one from another main campus school, and one from outside the main campus, to hear the grievance. The Chair of the Grievance Code Committee shall appoint the Chair of each Grievance Panel.

As to each of these appointments the Chair of the Grievance Code Committee shall seek to assure that appointees are free of bias, conflict of interest, or such previous association with the issues raised by the grievance as would determine that the appointee not serve. Before the appointments are made, both parties—grievant and respondent—shall be afforded the opportunity to challenge the appointment of a Committee member or alternate to the Panel. A grievant's or a respondent's challenge must supply evidence that supports the claim of bias or conflict of interest, and the challenge must be submitted to the Chair of the Grievance Code Committee. The Chair of the Grievance Code Committee will decide whether the evidence of bias or conflict of interest is sufficient to exclude a Committee member or alternate from the Panel. The Chair of the whole Committee is permitted under these circumstances to consult with the President of the Faculty Senate. If the Chair himself or herself is alleged to have a relevant bias or conflict of interest, the President of the Faculty Senate shall decide the matter.

- b. **Timetable.** The Panel shall begin to review the grievance on a calendar proposed by the Panel Chair. The calendar proposed by the Panel Chair must be approved by the Chair of the Grievance Code Committee. The Panel must begin reviewing the grievance and hold a Panel meeting within 45 days after receiving the grievance from the Chair of the whole Committee, who shall monitor the progress of Panel reviews. Panels shall endeavor to complete reviews within a period of 4 months from the time of appointment of the Panel. Nothing in this set of provisions gives a grievant a cause of action should a deadline be missed. All time frames mentioned in this provision are subject to extension pursuant to section F2 of this Code.
  
- c. **Mutual Resolution.** The parties may reach a mutually agreed resolution to the grievance at any time. If they reach such agreement, the parties shall notify in writing the Chair of the Grievance Code Committee and the President of the Faculty Senate that the grievance has been resolved. The specific terms of the mutually agreed resolution need not be shared. The Chair of the Grievance Code Committee shall inform the Panel of the resolution. The Panel shall cease work upon receipt of such notification and shall have no obligation to enforce the parties' mutually agreed resolution. Any subsequent complaints from either the grievant or the respondent about failures to satisfy the terms of a mutually agreed resolution reached during the grievance process, shall be addressed to the Chair of the Grievance Code Committee. In the event of such a complaint, the Chair of the Grievance Code Committee shall endeavor to resolve the matter in a timely manner and shall inform the President of the Faculty Senate and the appropriate Executive Vice President of the complaint and the outcome.
  
- d. **Access to Information.** The Panel may seek additional information or evidence pertinent to the case from appropriate, informed, and relevant sources. However, the conciliation process shall remain confidential. Accordingly, a conciliator shall not be considered an available resource. The Panel shall assess the accuracy, credibility, and relevance of any information it collects. In soliciting information from any third party, rights of privacy and confidentiality shall be protected. This paragraph applies to all decisions the Panel is called on to make.
  
- e. **Advisors.** Advisors for the parties are not permitted to participate in the Initial Review except by written submission.
  
- f. **Decisions.** The Panel shall first decide both whether it has jurisdiction to act and whether the case warrants investigation. If the Panel decides it lacks jurisdiction, or that the matter does not warrant investigation, the Panel shall dismiss the grievance. The merits of the grievance shall be decided only after the Panel determines that it has jurisdiction and that the case warrants

investigation, and reports these decisions to the Chair of the Grievance Committee, who shall inform the parties to the grievance and the appropriate Executive Vice President. If there is an appeal of the Panel's determination that it has jurisdiction or that the case warrants investigation (see section G4), the merits of the grievance shall be decided only after such appeals have been exhausted.

In deciding the merits of the grievance, the Panel shall conduct as many formal hearings (see section G5) as it considers necessary. The Panel shall make its decision as expeditiously as circumstances permit and shall promptly report its decision to the Chair of the Grievance Code Committee who shall inform the grievant, the respondent, and the appropriate Executive Vice President.

#### 4. Appeal from the Initial Review

- a. By the Grievant. If the Panel dismissed the grievance on jurisdictional grounds or decides that the matter does not warrant investigation, the grievant may appeal either determination to the full Grievance Code Committee using the procedure in subsection G4c.

If the grievant does not appeal, the matter is ended and the Chair of the Committee shall notify the President of the Faculty Senate, the respondent, and the appropriate Executive Vice President.

If the Committee does not sustain the grievant's appeal, the grievant may appeal to the President of the University using the procedure described in section G9 (Appeal to the University President). If the grievant does not appeal, the matter ends.

If the Committee decides that the Panel erred in dismissing the grievance on jurisdictional grounds, the Committee shall remand for a determination as to whether the matter warrants investigation as provided in section G3 (Initial Review). If the Committee decides that the Panel erred in deciding that the matter did not warrant investigation, the Committee shall remand the matter for formal hearings, as provided in section G5 (Formal Hearings); for such a remand, the Committee shall appoint a new Panel to conduct a formal hearing on the grievance.

- b. By the Respondent. The respondent may appeal a Panel's determination that the grievance falls within the Panel's jurisdiction to the full Grievance Code Committee using the procedure in subsection G4c.

If the Committee does not sustain the respondent's appeal, the case returns to the Panel for formal hearings as provided in section G5 (Formal Hearings). No further appeal by the respondent on the jurisdictional issue is permitted until after the Panel decides the merits of the grievance, at the time of appeal (if any) to the University President described in section G9.

If the Committee determines that the Panel erred in finding jurisdiction, the matter is ended unless the grievant appeals to the President per the subsection G4a.

- c. **Appeal Procedure.** To appeal, the grievant or respondent shall, within ten days after receiving notification of the adverse determination, file a "Notice of Appeal from the Initial Review" with the Chair of the Grievance Code Committee. The Notice must be in writing and must state the reasons for appeal. In the absence of the Chair, the grievant or respondent may file with the Secretary of the University or the Faculty Senate President. The Chair shall within thirty days after the filing convene the full Grievance Code Committee to deliberate and decide whether to hear the appeal, and, if so, whether to sustain the appeal. A quorum of at least nine members of the Committee must be in attendance. The Committee's decisions shall be made according to the majority of members in attendance and voting. The Chair shall report the Committee's decisions to the President of the Faculty Senate, the respondent, the grievant and the appropriate Executive Vice President.

## 5. Formal Hearings.

A grievance hearing is not a formal judicial proceeding. Its ultimate purpose is to evaluate the fairness of the administrative action that gave rise to the grievance. To achieve that end, the Panel can exclude irrelevant issues or evidence, and can place reasonable limits on argument and the questioning of witnesses.

The Panel can decide when it has enough information to decide the merits of the grievance, except that the Panel cannot decide the merits of a case without holding a hearing unless both parties waive their right to a hearing in writing.

Either party may at any time waive his/her right to a hearing and elect to proceed on the basis of written submission alone. Any such waiver must be in writing, must have the agreement of both parties and must be submitted to the Panel Chair. Written submissions on the merits of the grievance are

to be thereafter submitted to the Panel in accord with a schedule prescribed by the Chair, whose duty it is to see that the matter is advanced expeditiously.

If the right to a hearing is not waived, the Panel Chair, after consulting the parties, shall promptly notify them of the time and place of the hearing, which the Panel should hold as promptly as possible after determining that the Committee has jurisdiction and that the matter warrants investigation. The parties may submit written evidence or documentation before the hearing. Each party shall notify the Panel Chair and the opposing party of the witness(es) he/she intends to call no later than five days before the hearing. Each party has responsibility for arranging the attendance of any witness he/she intends to call.

Each party can choose an advisor to accompany him/her to the hearing. Each party can call witnesses or present other evidence; can examine any evidence submitted to the Panel by anyone else; and can question witnesses he/she has not called. The hearing shall be electronically or otherwise recorded verbatim. Upon request, a copy of the recording shall be furnished to either party at the University's expense.

General procedures recommended for conducting a hearing are the following:

- a. The Panel Chair shall explain to all parties the purpose of the hearing, the procedures to be followed, and the rights of all parties.
- b. The Panel Chair shall provide the grievant with up to 15 minutes to summarize the major complaint(s) presented in the written evidence or documentation assembled prior to the hearing. The grievant has the right to not make this presentation.
- c. The Panel Chair shall provide the respondent up to 15 minutes to respond to the representations of the grievant and to add pertinent comments. The respondent has the right to not make a reply or presentation.
- d. The Panel Chair and the Members of the Panel may ask questions that seek clarification of matters of fact and representations in the written materials and the prior presentations in the hearing. Both the grievant and the respondent shall be given the opportunity to reply to questions and to engage in the ensuing dialogue.
- e. The Panel Chair shall invite the parties to call witnesses. All parties shall be given the opportunity to ask questions of the witnesses.

- f. The Panel may adjourn the hearing to permit the parties to obtain further evidence.
- g. The Panel Chair may terminate discussion of matters that are not relevant to the issues to be decided by the Panel.
- h. The Panel Chair shall invite the parties to make brief closing statements.
- i. During hearings on the merits of the grievance, advisors may be present but are limited to off-record consultation with his/her party/advisee, and may make a closing summary of argument within reasonable time limits set by the Panel Chair.
- j. The Panel shall make a determination as to whether the hearing is complete and whether further evidence needs to be obtained. Parties to the hearing other than Panelists need not be present in the room when this determination is made. In the event of disagreement among Panel members, a majority vote will decide the matter.

There may be cases in which additional procedures are needed. The Panel will determine which procedures are needed and in which order they should occur. Notification must be given to the grievant and the respondent in advance of the hearing.

A member of a Panel shall serve until the particular grievance process is concluded, even though his/her term of service on the full Grievance Code Committee has expired.

## 6. The Panel Report.

Within fifteen days after the conclusion of the hearing, or of written submission in lieu of a hearing, the Panel shall submit a report of its findings and decision to the Committee Chair who shall immediately send the Panel Report to the grievant, the respondent, the appropriate Executive Vice President, the President of the Faculty Senate, and other members of the Grievance Code Committee.

The Panel's report must include a narrow ruling for or against the grievant along with a comprehensive rationale for the decision. The report *shall not* include a recommendation regarding a remedy for the grievant, as this responsibility is the purview of the full Grievance Code Committee. Nevertheless, if the Panel believes information pertinent to the formulation

of a remedy should be conveyed to the Grievance Code Committee, the Panel may include such guidance within the report.

The Panel is at liberty to make broader comments about policies, procedures and circumstances that may have contributed to the conflict, and to recommend to the University changes that might prevent future conflicts of the same type. All such recommendations shall be characterized as recommendations by the Panel Chair and forwarded (in a mailing separate from the Panel's decisions in the case) to the Chair of the Grievance Code Committee and the President of the Faculty Senate.

7. Appeal from the Panel Report.

To appeal, the grievant or respondent shall, within ten days after receiving the Panel Report under section G7, file a "Notice of Appeal from the Panel Report" with the Chair of the Grievance Code Committee. In their absence the grievant may file the Notice with the Secretary of the University or the President of the Faculty Senate. The Notice must be in writing and must state the reasons for appeal. The Chair shall within thirty days after the filing convene the full Grievance Code Committee to deliberate and decide whether to hear the appeal, and, if so, whether to sustain the appeal. The Committee may reverse the Panel's decisions or may remand the matter with appropriate instructions to the Panel. Such action shall be taken on the basis of the existing record and without further hearing or fact-gathering. A quorum of at least nine members of the Committee must be in attendance. The Committee's decisions shall be made according to the majority of members in attendance and voting. The Chair shall report the Committee's decisions to the President of the Faculty Senate, the respondent, the grievant, and the appropriate Executive Vice President.

8. Decision on Remedy.

The Grievance Code Committee shall decide on the remedy in all cases when there is a final ruling in favor of the grievant. A quorum of at least nine members of the Committee must be in attendance. The Committee's decisions shall be made according to the majority of members in attendance and voting. A decision on remedy, along with both the assenting and dissenting vote count, will become part of the decision record. The Chair shall report the Committee's decisions to the President of the Faculty Senate, the respondent, the grievant, and the appropriate Executive Vice President. The decision on remedy will be considered a final decision of the Grievance Code Committee, with appeal only to the University President, as provided under section G9.

All remedies resulting from the procedures prescribed by this Grievance Code must comply with, and are subject to, applicable law and must be consistent with

the University's contractual and other legal obligations and University policy.

9. Appeal to the University President.

Should either party desire to appeal the Committee's decision to the President, he or she shall file a "Notice of Appeal" within 15 days after the Chair has sent the Committee's decision to the parties. The party shall file the Notice of Appeal with the Chair of the Grievance Code Committee, concurrently sending a copy to the adverse party. The Notice of Appeal, shall contain a concise written statement of the reasons that lead the party making the appeal to believe that the Panel's or Committee's determinations were erroneous, and shall include a designation by the appealing party of which papers in the file he/she wishes forwarded to the President of the University. Upon the filing of the Notice of Appeal, the file on the grievance shall be forwarded by the Committee Chair to the President of the University. The file consists of such parts of the record as may be designated by the parties, but the Committee Chair is authorized to place fair and reasonable limits on the size of the record forwarded. At the President's discretion, but not later than ten days after receiving the file on the grievance, the President may remand the matter to the Committee or to the Panel for further deliberations. If the matter is remanded, the Chair of the Committee shall report to the President as soon as possible on the outcome of the Panel's and/or the Committee's further deliberations.

Within twenty days of receipt of the Notice of Appeal, or, if there has been a remand, within twenty days of the receipt of the Committee's additional report, and after such consultation as he or she deems appropriate, the President shall accept or reject the findings and decision of the Committee, including the finding of jurisdiction and shall state in writing the reasons for acceptance or rejection. Review by the President shall be confined to evidence considered by the full Committee, in addition to whatever arguments the parties may make with regard thereto.

If the President is unavailable to act within the time provisions of this section, then the President shall appoint an Executive Vice President from a campus other than the campus from which the grievance arose to review the appeal in the manner described. If the President is in a situation of conflict of interest, then the President of the Faculty Senate shall designate an Executive Vice President from a campus other than the campus from which the grievance arose to review the appeal. The President or the Executive Vice President who reviews the appeal may at his/her discretion appoint a senior member of the faculty as a "Master" to assist with the review.

In a grievance in which the University President is a properly named respondent, the appeal process prescribed in this section shall not be altered. All respondents

shall be treated alike, without exception.

The President or Executive Vice President conducting such a review shall communicate his or her decision to the adverse parties, to the Chair of the Grievance Code Committee, to the President of the Faculty Senate and to the appropriate Executive Vice President. In the extraordinary event that the President or other officer designated above does not act within the time limits imposed by this section, the Committee's decision shall become final and shall be immediately implemented by the appropriate University authorities.[17]

## H. AMENDMENT

The Code may be amended only after: (1) an advisory vote of a majority of the University Faculty Senate present at a meeting after the matter has lain on the table for at least one meeting and proposed amendment has been publicized to the full Faculty; and (2) approval by the University Board of Directors.

Every five years the University President shall appoint a six member committee to review this Code. The President shall select three members and the University Faculty Senate shall select three members.

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## ENDNOTES

14. If a person not expressly covered by this Code or any other University grievance code is aggrieved in circumstances where considerations of academic freedom indicate the Code should nonetheless apply, the appropriate Campus Executive Vice President is authorized, at his/her discretion, to extend the coverage of the Code at that person's request. (Return to Section)
15. As used throughout the text of the Code, the word "day" refers to working days, Monday through Friday, excluding University holidays and emergencies such as snow that result in the closure of the University. Federal holidays that are not University holidays are not excluded. All time limits expressed in this Code as days refer to working days. (Return to Section)
16. Issues about remedies for a former employee will be handled in the same manner that remedies for current employees are handled (see Section G8).
17. For purposes of these procedures, if the Executive Vice President is a respondent, the University President will be informed of the results and take the required actions. (Return to Section)