

# APPENDIX A: GRIEVANCE PROCEDURES

## I. GENERAL PRINCIPLES AND OVERVIEW

The grievance procedures provided by the university and each of its units must be fair to all parties concerned – faculty members, research faculty, administrators, and the university. The procedures should be reasonably uncomplicated, follow the established lines of administration within the School of Nursing and the University of Michigan, include informal as well as faculty review processes, and allow for timely redress where appropriate.

## II. INSTRUCTIONAL, CLINICAL, AND RESEARCH FACULTY GRIEVANCE PROCEDURES

### A. Access to the Grievance Procedure

1. Eligible grievants. The procedure applies only to those instructional faculty who are tenured, tenure-track, or clinical faculty; research faculty, including those in the research scientist track and those in the research professor track. “Clinical faculty” includes those faculty on the clinical track and those faculty who are credentialed through the Faculty Practice Plan and whose primary responsibility is practice. The procedure does not apply to supplemental faculty such as adjunct faculty or visiting faculty.
2. Grievable matters. These procedures are available when there is a charge that the school or a division has reached a decision or action concerning a faculty member’s conditions of employment that violates University policy or is otherwise manifestly unfair. The school is, and the divisions are, expected to rely scrupulously and consistently on decision-making procedures that are fair and commonly known. Grievances brought pursuant to this document apply only to a decision or action concerning a specific individual or specific individuals, including those adversely affected by application of a policy or standard operating procedure, written or unwritten. The procedure does not apply to decisions regarding employment, including tenure or promotion decisions, merit pay determinations, and decisions regarding clinical competence/patient safety, that are based solely and exclusively on judgments about professional performance. But this grievance process does apply to claims that the procedure followed in making such decisions failed to follow University policies and procedures or was otherwise manifestly unfair, or that the decision violated standards of nondiscrimination contained in Regental Bylaw 14.06. Although these procedures may be used to challenge the procedures used in the formation of school or university policy, they shall not be available for challenges to the desirability of such policies, nor are they available for claims that are patently frivolous or without merit, based upon an interpretation of the facts most favorable to the grievant.

## B. Informal Review Process

The grievant must first be permitted to discuss informally and privately any grievance relating broadly to employment with those who made the decision that gave rise to the complaint. If the matter is not resolved, the grievant must then have access to a formal grievance system in which there is faculty participation.

### Informal Discussion:

1. A grievant must first try to resolve a dispute by discussing it informally with the person (or persons) who made or affirmed the disputed decision or who has the authority to provide redress. (The grievant is reminded that the formal review must be initiated within 90 days as stated in C.1.)
2. Efforts to resolve a dispute informally may continue despite the commencement of formal review under Section C., below.
3. If the results of this discussion are not satisfactory, the faculty member will meet with the person at the next administrative level (division chair, assistant dean, associate dean, and/or dean) to present and discuss her/his problem or complaint.
4. In instances when the faculty member proceeds to discuss an unresolved problem with the dean, the informal process ends following the dean's review and decision.

## C. Formal Review Process

1. Grievant's request. Within 90 calendar days of the date the grievant first knew or could reasonably have been expected to know of the decision or event that gave rise to the grievance a Faculty Grievance Form (FGF) will be filed and submitted to the Director of Academic Human Resources (DAHR) and the SACUA Faculty Grievance Monitor (FGM). The DAHR shall transmit a copy of the FGF to the named respondent(s), with copies to the dean.
2. Parties. The parties to a grievance are the faculty member who initiates the grievance and the decision-maker(s) responsible for the contested decision or action. Both the grievant and the respondent shall abide by all the procedures set forth here, shall participate in good faith, and shall respect the confidentiality of the process. Communication concerning the proceedings shall be limited to parties, advisers, mediators, and any others for whom information is strictly necessary for the legitimate effectuation of the process.
3. Composition of the Board. A Grievance Hearing Board (Board) shall be established to handle each grievance filed by a faculty member.
  - a. A Faculty Grievance Hearing Panel (FGHP) is established from whose members each Grievance Hearing Board will have two selected randomly. The FGHP will consist of tenured faculty members, elected by the school. FGHP members will serve single staggered terms of three years. FGHP members may not serve consecutive terms. Vacancies will be filled in the same manner except that if the unexpired term is one year or less, the replacement member shall serve an additional three year term. Within 10 working days of receiving the notice of a pending grievance, the Director of Academic Human Resources (DAHR) and the SACUA Faculty Grievance

Monitor (FGM) shall meet or communicate and choose by lot two persons from the FGHP to serve on the Board. Those two members shall come from different academic units and neither shall come from the school of the grievant. The DAHR and the FGM may then agree on one of the two members as a chair for the Board or leave the choice between those two of the Board itself.

- b. The third member of the Board shall come from the school from which the grievance arises. The school shall elect three-to-five tenured faculty as potential Board members. Only one of the three-to-five members elected will serve on the grievance. Members will serve a three year term. Within 10 working days of receiving the notice of a pending grievance from the DAHR, the grievant and the respondent shall each nominate three members from this list of potential Board members. Both parties shall rank their preferences and transmit their choices to the DAHR and the FGM. Within 5 working days the DAHR and the FGM shall jointly determine the one nominee most favored by both parties. If there is a tie amount the choices, the DAHR and the FGM will jointly resolve the tie by lot.
  - c. At any time prior to the first meeting of the Board, the grievant and the respondent have the option of agreeing upon any three tenured University faculty members from any academic unit, whether or not members of the FGHP, to serve as the Board. In this instance, the remaining provision regarding Boards will apply.
4. Board Election Process.
- a. Faculty Grievance Hearing Panel (FGHP). To prepare a slate of qualified candidates for the general faculty election, the staff member supporting the Chair of the Faculty will contact all eligible faculty for each open slot and ask them to have their name on the ballot. The final ballot will be reviewed by the faculty serving on the school Senate Assembly along with the division chairs and presented to the faculty for approval. The ballot shall contain at least three candidates for the one vacant position. The slate will not include faculty members who hold administrative positions in the school, such as assistant or associate deans or division chairs. During the general election held each April, votes will be collected and tallied under the supervision of the faculty serving on the Senate Assembly. The election results listing names from highest to lowest vote count will be forwarded to the dean. The dean will forward the elected faculty member's name to the Office of the Provost. The Office of the Dean will maintain the historical record of the faculty serving on the FGHP and retain election ballots on file for three years.
  - b. Grievance Hearing Board (Board). To prepare a slate of qualified candidates for the general faculty election, the staff member supporting the Chair of the Faculty will contact all eligible faculty for each open slot and ask them to have their name on the ballot. The final ballot will be reviewed by the faculty serving on the school Senate Assembly along with the division chairs and presented to the faculty for approval. The ballot shall contain at least five candidates for the three-to-five vacant positions. The slate will not include faculty members who hold administrative positions in the school, such as

assistant or associate deans or division chairs. During the general election held each April, votes will be collected and tallied under the supervision of the faculty serving on the Senate Assembly. The dean will forward the elected faculty member's names to the Office of the Provost. The Office of the Dean will maintain the historical record of the faculty serving on the Board and retain election ballots on file for three years. A vacancy in membership can be filled by an alternate from the most recent ballot. Should an alternate not be available a special faculty election will be held to fill the member vacancy for the designated period of time.

- c. A member of a Board shall recuse her/himself if s/he has significant personal or professional associations with either party and any member shall be excused with the concurrence of both the Director of Academic Human Resources (DAHR) and the SACUA Faculty Grievance Monitor (FGM), if either the grievant or the respondent objects for sufficient cause to the person's serving.
5. Board's Decision to Review the Case.
    - a. The Board shall meet within 15 working days after it is established to first determine whether the complaint is within the authority or jurisdiction of the grievance process. The Board may dismiss the grievance without a hearing if it concludes, on the bases of the FGF and all other materials before the Board that there are no grounds for deciding the case in the grievant's favor. If the Board decides the complaint is not grievable, the grievant shall have 15 working days to appeal this decision to SACUA or a faculty body designated by SACUA. The appellate body shall have 20 working days to resolve the issue. Its decision shall be final.
    - b. Within 10 working days of its first meeting, the Board shall advise the grievant, the respondent, the Director of Academic Human Resources (DAHR), the SACUA Faculty Grievance Monitor (FGM), and the dean in writing whether it will proceed with a hearing. If the Board decides the complaint is not grievable, or the grievance is to be dismissed, it shall state its reasons in writing. If the Board decides to proceed, it shall specify in a written notice to the parties, the DAHR, the FGM, and the dean when and where the hearing will be held and what issues are to be addressed by the parties. The hearing shall be scheduled within 30 working days or as soon thereafter as is practicable.
  6. Parties' Rights. The Board shall ensure fair procedures for the parties in any hearing. Specifically, the grievant and the respondent shall have the following rights:
    - a. To be accompanied before the Board by advisers, who may be attorneys. The advisers may advise their clients but may not participate directly in the hearing.
    - b. To appear and present their cases, and to cross-examine the witnesses and challenge the evidence presented by the other party.
    - c. To have access to all relevant evidence, testimonial and documentary, except confidential evaluations and evidence that would infringe upon the privacy interests of third persons. Upon a party's request, the chair of the Board shall be allowed to examine relevant confidential files of an academic unit or

department and to provide the Board with a summary of their contents as they relate to the grievance, giving due consideration to protecting the confidential aspects of the material.

- d. The Board may call its own witnesses and obtain relevant documents, subject to the parties' right of access and the confidentiality restrictions above.
- e. Testimony before the Board is voluntary. If any witness declines to testify about any issue, however, the Board may draw appropriate inferences about what the testimony would have been based on the refusal to testify. Any such inference should be carefully supported and explained by the Board.
- f. Hearings before the Board shall be private and confidential, attended only by the principal parties and their advisers, if any; the Director of Academic Human Resources (DAHR) or designee; and the SACUA Faculty Grievance Monitor (FGM) or designee. Unless otherwise directed by the Board for good reason, witnesses shall attend only while testifying. The Board chair may invite appropriate observers or others having a substantial interest in the outcome of the case, if both the grievant and the respondent agree.
- g. Portions of the hearing at which testimony is taken and evidence presented shall be recorded verbatim, but the recording may be by voice recorder. Both the grievant and the respondent may also record the hearing.
- h. The Board shall deliver only to the grievant and the respondent a written provisional decision within 20 working days after the completion of testimony and argument. The content of the provisional decision shall remain confidential and may not be shared at any time with any other person except those entitled without special agreement to participate in the hearing or advise the parties.
- i. The grievant and the respondent shall have 10 working days after receipt of the provisional decision to submit a written response to the Board.
- j. The Board shall consider any responses to the provisional decision and shall deliver its final decision within 10 working days after receipt of those responses. Both the provisional decision and the final decision shall include a summary of the testimony, factual findings, conclusions with reasons the grieved decision or action was or was not violated of University policy or otherwise manifestly unfair, and, if appropriate, a proposed remedy. Decisions of the Board shall be by majority vote. The reasons for any dissent must be stated in a written minority opinion. The Board shall present the final decision only to the grievant, the respondent, the dean, the Director of Academic Human Resources (DAHR), the SACUA Faculty Grievance Monitor (FGM), and, if appropriate, the division chair.
- k. Although the Board does not have executive authority, the parties are expected to respect and accept the findings, conclusions, recommendations, and any proposed remedy of the Board as the considered judgment of a competent and disinterested peer group. The Board may recommend actions that do not fall within the respondent's authority, but recommendations addressed to those who are not parties should not give rise to the same expectations.

7. SACUA Faculty Grievance Monitor (FGM). The SACUA Faculty Grievance Monitor (FGM) is a tenured faculty member who is appointed annually by SACUA to monitor all grievances. In addition to the functions assigned elsewhere, the FGM and the Director of Academic Human Resources (DAHR) shall have the following responsibilities:
  - a. Jointly to provide or arrange for the training of FGHP members, and especially those designated as Board chairs, in the conduct of a hearing and the preparation of a formal written decision.
  - b. Jointly or separately provide objective information to either the grievant or the respondent or both about the operation of the grievance procedure.
  - c. Separately to monitor the processing of the grievances and to report to the dean, or the provost if the dean is a respondent, any delay or other failure to comply with specified procedures or Board directives or decision on appeal.
  - d. Separately to maintain confidential records of all grievance proceedings, including copies of all written documents that are submitted and of any written transcript of testimony that is prepared. If there is a single voice or electronic recording of the testimony, the DAHR shall maintain custody of it after the Board renders a final decision, but shall allow access as needed by the parties, the FGM, and the University authority to whom any appeal is addressed.
  - e. Jointly to provide redacted reports or summaries of cases, with party names and all identifying details deleted, to University administrators and faculty members, scholars, and others with legitimate interest in knowing about the proceedings.
8. The dean, or the provost if the dean is a respondent, shall take prompt action to remedy any undue delay in the processing of grievances or other failure by any party to comply with specified procedures or Board directives or decision on appeal.

#### E. Formal Appeals Process

1. Party's request. The grievant or the respondent or both may submit a written appeal of a final decision by a Grievance Hearing Board (Board) within 20 working days of the receipt of the decision. If the dean is not a respondent, the appeal shall be submitted to the dean. If the dean is a respondent, the appeal shall be submitted to the provost. The written appeal must include the nature of the complaint, the facts supporting it, and the remedy sought.
2. Decision(s). An appeal shall be decided on the record made before the Board. When necessary in the judgment of the person deciding the appeal, the proceedings may be remanded to the Board to receive new information. A remand for new information shall be granted on the request of the grievant or respondent only on a showing that the information could not, in the exercise of reasonable diligence, have been presented when the record was made. The remand shall set the times for further Board proceedings, including any revised final Board decision. The findings, conclusions, recommendations, and proposed remedy, if any, of the Board shall be presumed valid on appeal, and shall be rejected or modified only because of substantial errors of fact or interpretation of University regulations.

3. **Written Response.** The dean or provost shall respond in writing within 30 days of receiving the appeal, stating the action to be taken and the reasons for it. The response shall be transmitted to the grievant, the respondent, and the members of the Board, the Director of Academic Human Resources (DAHR), and the SACUA Faculty Grievance Monitor (FGM).