

*** SEVENTH DRAFT ***

FACULTY GRIEVANCE POLICY AND PROCEDURE

7 January 2008

(Proposed by the DU chapter of AAUP for consideration, revision, and ratification by the Faculty Senate, Council of Deans, Provost, Chancellor, FEAC, Board of Trustees, etc.).

This proposal is in response to confusion expressed by faculty members over the process for initiating a workplace grievance and longstanding discussions in the Faculty senate regarding the need for a policy that clearly defines the process. Much of the confusion arises because faculty grievances are currently covered by three separate documents: (1) Faculty Personnel Guidelines Relating to Appointment, Promotion, and Tenure, (2) DU's Employee Handbook, and (3) The Constitution of DU's Faculty Senate. The policy proposed in this document integrates existing policies in a single document and adds additional detail concerning timelines, examples of grievable offenses, contents of a written grievance, steps in processing a grievance, and the scope and responsibilities of the Faculty Review Committee

I. Scope and Purpose

A. This Policy applies to workplace issues not covered by the *Faculty Personnel Guidelines Relating to Appointment, Promotion, and Tenure* (http://www.du.edu/facsen/APT_2001.doc). That document shall take precedence for any specific matter covered by that policy.

B. Faculty members who may pursue a grievance under this policy are all those who are covered by the APT Guidelines identified in IA, above, or perform duties, full or part-time, directly related to the instructional and/or research functions of the university.

C. The purpose of this policy is to encourage prompt and equitable resolution of grievances by either informal or formal means as specified in this document.

D. This Policy draws upon, and is consistent with, the Employee Dispute Resolution process specified by DU's Employee Handbook (but for faculty concerns, it replaces that process) (http://www.du.edu/hr/forms/employee_handbook.html#EmplyDisputeResolution), the Constitution of DU's Faculty Senate (http://www.du.edu/facsen/Constitution_0601.html), and the American Association of University Professor's "Recommended Institutional Regulations on Academic Freedom and Tenure" (<http://www.aaup.org/AAUP/pubsres/policydocs/contents/RIR.htm>).

II. Definitions and Clarifications

A. Grievance: a complaint by a faculty member concerning an action or decision that directly and adversely affects the grievant in his or her professional academic capacity. Examples of grievances are listed in Section III A and B below.

B. Grievant: the person initiating the grievance.

C. Respondent: the individual who carried out the action or made the decision which is the subject of the grievance, and against whom the grievance is filed. If the Provost is a respondent, the Chancellor of the university will assume the responsibilities assigned to the Provost in this policy.

D. Faculty Review Committee: Elected, representative faculty committee described in section VI(A) of the Faculty Senate Constitution (http://www.du.edu/facsen/Constitution_0601.html#ADVISORY).

III. Grievances

This Policy covers two basic types of grievances regarding faculty working conditions:

A. Complaints of wrongdoing by a faculty member against another faculty member(s) relating to intimidation, harassment, discrimination, violation of privacy, or other inappropriate behavior that creates an unhealthy or hostile workplace environment.

B. Complaints arising from any administrative action which a faculty member believes is discriminatory, unfair, in violation of their rights under established University personnel regulations, policies, and practices or their legal rights, or inconsistent with professional standards. These include, but are not limited to, complaints related to:

1. assignment of departmental duties.
2. program support and direction.
3. personnel processes and decisions (e.g., renewal of appointment, adequacy of faculty representation on department search, promotion, and other committees).
4. allegations of professional misconduct.
5. quality of annual performance evaluations.
6. size of merit raises (provided that a pattern of inequity extending over at least a two year period can be demonstrated).
7. denial/withholding of a university benefit.
8. violation of equal opportunity¹.
9. infringement of academic freedom.

IV. Procedures

The procedures stipulated in Parts A and B broadly align with the employee dispute resolution and grievance processes recommended by DU's Department of Human Resources and Diversity/Equal Opportunity Office. Part C is specific to faculty.

¹ Complaints that fall into the "protected class" category shall be referred to the Office of Diversity and Equal Opportunity.

A. Informal Administrative Solution

This informal step in the grievance procedure is to be undertaken solely at the option of the grievant and is not a prerequisite to filing a formal grievance. However, the faculty member is strongly encouraged to first seek informal administrative solutions to complaints covered by this Policy. This involves having a conversation with his/her direct supervisor (e.g., chair) and making a concerted effort to resolve the complaint without relying on the more formal process outlined in Part B. If the direct supervisor is the subject of the complaint, the faculty member may address the complaint to his/her next immediate supervisor (e.g., the dean, and as high as the Provost if necessary). The discussion should occur as soon as is reasonably possible after all parties (grievant, respondent, supervisor) have been notified of the disputed matter.

The nature of the complaint made by one faculty member against another, or by a faculty member against a supervisor, shall be clear and detailed. Any allegation about professional conduct made by a supervisor against a faculty member that the faculty member finds grievable should likewise be clear and detailed. The grievant may designate a personal representative for meeting purposes, and witnesses to certain discussions (e.g., an ombudsperson or mutually-agreed upon mediator) may be arranged by agreement of the grievant, respondent, and supervisor.

B. Formal Grievance Process

If the faculty member does not opt for an informal administrative solution, or is not satisfied with the result of the informal up-the-line discussion it prescribes, s/he may initiate a formal grievance process. This requires a written statement to their direct supervisor, or to the next highest administrator if the direct supervisor is the respondent. The grievance statement should be submitted no later than 6 months from the time of the last violation. The grievant shall include the following in his/her formal written statement:

1. description of the nature and particulars of the alleged violation;
2. identification of the personnel policies and procedures, legal rights, or professional standards violated;
3. suggestion of a remedy.

The Director of Human Resources and other appropriate university officials may consult with and advise the grievant, respondent, and other principals in the case in order to achieve a timely and expeditious resolution, including enlisting the aid of an outside investigator(s) and/or mediator(s).

The written response by the supervisor or next immediate supervisor to the grievance should be made no later than 30 calendar days following receipt of the written statement. All written documentation by all parties should be copied to the Provost and the Director of Human Resources.

The Diversity and Equal Opportunity Office (DEOO) must be notified of any grievance by a faculty member alleging discrimination, including sexual harassment. The EO Officer, if so requested by the grievant, will investigate any grievance alleging discrimination and attempt to help the parties resolve the issue. Faculty members should be aware of any specific time deadlines associated with filing a discrimination claim with the DEOO.

C. Appeal to the Faculty Review Committee

If the faculty member and his/her direct supervisor or next immediate supervisor are unable to agree on a resolution of the formal written grievance, the faculty member may petition the Faculty Review Committee (FRC) for redress as per the Faculty Senate Constitution section VI(A). This petition must be made to the Chair of the FRC within 30 days of the exhaustion of the procedures detailed in Part B, with simultaneous notification of the Provost. The Provost in turn will send copies of the petition to the appropriate respondent(s), supervisor(s), and other appropriate parties.

The written petition to the FRC will set forth in detail the nature of the grievance and will state against whom the grievance is directed. It will contain any factual or other data that the grievant deems pertinent to the case, and describe the remedy sought. All written documentation will be copied to the Provost and the Director of Human Resources.

The FRC must initiate an inquiry into the complaint within 30 calendar days of receiving it.

[Note: The AAUP chapter suggests that the FRC consider establishing a “Faculty Appeals Committee” (FAC) to consider all faculty grievances that are unrelated to promotion and tenure. If this is reasonable, then we would need a procedure for selecting members. The Senate and AAUP chapter will help constitute such a committee, in consultation with grievants and respondents.]

The FRC (or, FAC) will afford the person or persons whose actions are the object of the grievance an opportunity to respond in writing. The grievant and respondent will identify all witnesses that may be called upon by the Committee for testimony and what relevant facts they may be able to contribute. The Chair of the FRC will be responsible for contacting these individuals to ascertain their willingness to participate in the proceeding. Evidence may include patterns and trends of behavior with respect to the current grievance. The FRC may conduct any additional inquiry into the complaint, and collect any other evidence that it deems warranted. The FRC will evaluate the grievance and determine whether it has merit. If the committee finds merit, it will recommend appropriate remedies for inequities or injustices.

Within 45 calendar days of the close of the grievance proceedings—but no later than 60 calendar days from receipt of the complaint—the FRC/FAC shall submit a written report to the Provost, who will send copies of the report to the grievant, the respondent, the direct supervisor of the grievant, the next immediate supervisor, and the Director of Human Resources.

D. Decision by the Provost

The Provost shall present a written response to the FRC's recommendation, either agreeing or disagreeing with it. If the Provost disagrees with the FRC recommendation the Provost must make full explanation in writing, with reasons for the decision. The Provost's decision must be distributed to the grievant, respondent, the FRC, and any other involved parties within 30 calendar days of receipt of the FRC report.

E. Appeal to the Chancellor

The faculty member may appeal the decision of the Provost to the Chancellor within 30 calendar days of receipt of the Provost's decision. Any appeal to the Chancellor shall be made on the basis of the complete written record only. The Chancellor's written decision shall be made within 30 calendar days of receipt of the appeal and will be final. Copies of the final decision shall be sent to all parties involved.

V. Adherence to Timelines

Any request for departure from the established timelines in this policy should be made in writing to the Provost before the FRC convenes or to the Chair of the FRC after it convenes. When the Chair of the FRC receives such a request, the FRC will determine the appropriate action to be taken.

VI. Withdrawal of a Grievance

The grievant may withdraw the grievance at any point in the process prior to the time at which the Faculty Review Committee meets to consider its decision, with the consent of the Committee.

VII. Non-Retaliation

A faculty member shall not be penalized, disciplined, disadvantaged, or in any way retaliated against for exercising his/her right to make a complaint or file a grievance. Likewise, a faculty member shall not be penalized, disciplined, disadvantaged, or in any way retaliated against for assisting another faculty member in the presentation of a complaint or for participating in grievance matters pursuant to this procedure (e.g., as a witness in a grievance proceeding or as a member of a grievance committee; e.g., the Faculty Review Committee). All supervisors are responsible for enforcing this policy. Individuals who violate this policy will be subject to the appropriate and applicable disciplinary process, up to and including termination or dismissal.