

**\* NINTH DRAFT \***

## **FACULTY GRIEVANCE POLICY AND PROCEDURE**

**(Incorporating comments from the academic deans, and approved by the AAUP chapter membership)**

24 October 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, and steps in processing a grievance. It also proposes the formation of two new committees for handling grievances at progressively higher levels if the lowest level administrative solution is unsuccessful.

### **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](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.

C. The purpose of this policy is to encourage prompt and equitable resolution of grievances by either administrative or mediated 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](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](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 the faculty member believes directly and adversely affects them in their professional academic capacity. Examples of grievances are listed in Section III, 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.

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](http://www.du.edu/facsen/Constitution_0601.html#ADVISORY)).

[Note: We propose formation of a new *Faculty Appeals Committee* to handle issues related to faculty working conditions that previously fell under the domain of the Faculty Review Committee (see section IV-C, below)].

### **III. Grievances**

This Policy covers complaints unique to the faculty role that arise from any administrative action which a faculty member believes is discriminatory, unfair, arbitrary, in violation of their rights under established University personnel regulations, policies, and practices or their legal rights, or inconsistent with professional standards (for example, complaints related to program support and direction, faculty performance evaluation and salary review, allegations of professional misconduct, and infringement of academic freedom). Complaints arising from a situation that is not unique to the faculty role will follow the established process for all DU employees. Faculty who are uncertain as to whether or not a complaint is unique to the faculty role should seek advice or consultation from the President of the Faculty Senate.

### **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.

#### **A. Administrative Solution**

This step in the grievance procedure is mandatory and prerequisite to filing a formal, written grievance. It involves the faculty member having a conversation with his/her direct supervisor (e.g., chair) and making a concerted effort to resolve the complaint without relying on the mediated 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 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 shall 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. Mediated Solution**

If administrative solution of the complaint fails, the faculty grievant may seek a mediated solution. 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 complaint will be received and reviewed by a unit-level grievance committee constituted in each division, college, or school at the beginning of the academic year. The unit-level committee will include 2 members elected by the faculty, 2 faculty members chosen by the dean (or director where there is no dean), and 1 faculty member from *another* academic unit appointed by the Provost upon consultation with the four elected/appointed members. The four elected/appointed members will select the chair of the committee. The unit-level committee will consider all evidence and testimony it deems relevant and decide whether the grievant has established a substantive basis for taking remedial action.

A written response by the unit level committee to the grievance either dismissing the complaint or outlining the remediation to be undertaken will be made no later than 30 calendar days following receipt of the written statement. All written documentation will 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. Faculty Appeals Committee**

If the unit-level grievance committee concludes that the grievant has not established a case for remedial action and the grievant is not satisfied with that decision or if the unit-level committee concludes that the grievant has established a case for remedial action but the grievant is not satisfied with the remedial action that is recommended by the unit-level grievance committee,

then the faculty member may petition the Faculty Review Committee (FRC) for redress as per the Faculty Senate Constitution section VI(A).

*[Note: AAUP members suggest that the FRC establish a “Faculty Appeals Committee” (FAC) to consider all faculty grievances unique to the faculty role that are unrelated to promotion and tenure. Such a committee will be established along the same lines as the FRC, including faculty representatives from the major divisions, colleges and schools as well as a representative(s) from the Administration. The Chair of the FAC will be a faculty member appointed by the Provost. Additional members may be substituted or added at a level appropriate to the grievant and respondent.]*

The appeals petition must be made to the Chair of the FAC 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 FAC 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 FAC must initiate an inquiry into the complaint within 30 calendar days of receiving it.

The 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 who may be called upon by the Committee for testimony and what relevant facts they may be able to contribute. The Chair of the FAC 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 FAC may conduct any additional inquiry into the complaint, and collect any other evidence that it deems warranted. The FAC 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 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 FAC’s recommendation, either agreeing or disagreeing with it. If the Provost disagrees with the FAC 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 FAC, and any other involved parties within 30 calendar days of receipt of the FAC report.

#### **V. Adherence to Timelines**

Any request for departure from the established timelines in this policy should be made in writing to the Provost who 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 Appeals 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 Appeals 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.

It is within the rights of administrators, faculty, and faculty supervisors to seek to avoid the filing of frivolous grievances. A grievance may be filed against a faculty member for the alleged filing of frivolous grievances. Such a grievance will be adjudicated following the procedures outlined in the present document. Decisions of the FRC (or FAC), appeal decisions by either the Provost or Chancellor, and actions taken in accord with such decisions whose purpose is to restrain a faculty member from filing, or assisting in the filing of, frivolous grievances are permissible.