
**FACULTY
GRIEVANCE
PROCEDURE**

**of The
University of Massachusetts
Medical School**

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UNIVERSITY OF MASSACHUSETTS MEDICAL SCHOOL
FACULTY GRIEVANCE PROCEDURE

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(1) PURPOSE, SCOPE, AND DEFINITIONS

1.1 Purpose

The purpose of the Faculty Grievance Procedure is to encourage prompt and equitable resolution of grievances (see section 1.3.1) by either informal or formal means as specified in this document.

1.2 Coverage

University of Massachusetts Medical School consists of the School of Medicine, the Graduate School of Biomedical Sciences, the Graduate School of Nursing and other schools, programs, and relationships that may exist at a given time. This procedure applies to all faculty members who are covered by the policies and procedures of each school or program: School of Medicine's Academic Personnel Policy (Document T95-022 as Amended by the Board of Trustees, August 23, 2006); Graduate School of Biomedical Sciences' Governance Document (Document T86-085 as Approved by the Board of Trustees, February 4, 1987); Graduate School of Nursing's Policies and Procedures for Appointment, Promotion and Tenure document (revised September 20, 2004) and revisions thereof.

1.3 Definition and Scope of a Grievance

1.3.1 Definition of a grievance:

A faculty grievance is defined as a complaint by a faculty member concerning a decision or action that is perceived to adversely affect the grievant in her or his professional academic capacity.

Generally the grievance will arise out of a specific issue ("specific grievance"), but occasionally the cause for concern may be an ongoing series of issues whose cumulative effect is the basis of the grievance ("cumulative grievance").

1.3.2 Examples:

Decisions or actions related to the following subject matters, which are listed by way of example and do not constitute an exhaustive list, can be the basis of a grievance (see section 2.2 standards): (1) promotion and tenure; (2) non-reappointment; (3) assignment of and support for teaching and/or other primarily academic responsibilities; (4) support and sponsorship of scholarly research; (5) termination.

1.3.3 Exclusions:

Six categories of grievance fall outside the scope of the Faculty Grievance Procedure: (1) those based solely or substantially on alleged violations of affirmative action or equal employment opportunity policies and procedures or perceived discrimination on the basis of race, color, religion, gender, sexual orientation, age,

national origin, veteran status, or special needs; (2) sexual harassment; (3) Decisions relating to a hostile work environment; (4) those related to suspension or revocation of clinical privileges or to other adverse actions brought against an individual in her or his capacity as a member of the UMass Memorial Health Care medical staff (grievances in the first three categories must be initiated through the University of Massachusetts Medical School Diversity and Equal Opportunity Office, and grievances in the fourth category must be processed according to the Bylaws of the Medical Staff of UMass Memorial Medical Center); (5) Decisions relating to administrative roles, for example, termination of an appointment as a departmental chair, a division head, or a position, such as head of a clinical laboratory, in a service unit (such appointments are made at the discretion of the appointing authority) and (6) Decisions involving voluntary or non-university appointments.

1.4 Other definitions

“Days” refers to working days (excluding Saturdays, Sundays and holidays).

"Letter of intent to file a grievance" refers to a letter sent to the Vice Provost for Faculty Affairs by the grievant indicating that the latter intends to file a grievance, but intends to attempt an informal solution first.

"Informal grievance" (refer to section 3.1) refers to a complaint which has not been formally submitted to the Faculty Grievance Committee in writing, but an intent to file a grievance has been filed with the Vice Provost for Faculty Affairs.

“Formal grievance” (refer to section 3.2) refers to a written grievance sent to the Chair of the Faculty Grievance Committee.

"Committee" refers to the Faculty Grievance Committee while "Chair" refers to the chair of that Committee. The Faculty Grievance Committee is a standing committee of the UMass Worcester Campus as provided under the UMass Worcester Campus Governance Document (Document T03-035 as Amended by the Board of Trustees August 23, 2006) and subsequent amendments.

"Grievant” refers to any faculty member or members who initiate a grievance through informal and/or formal mechanisms.

“Respondent" refers to the individual or individuals who allegedly made the decision or carried out the action which is the subject matter of the grievance.

"Parties" refers to grievant and respondent conjointly.

"Advocate" refers to a faculty member or any other member or employee of University of Massachusetts Medical School Worcester, not an attorney (refer to section 4.5 attorneys), chosen by either party to help them present their case. The advocate will typically attend the formal

hearing with the party and may participate at any level from simply being present to provide support to extensive involvement in the presentation of the party's case.

"Stipulations of fact" refers to any written statement(s) of agreement made between the parties.

1.5 Responsibilities

The Vice Provost for Faculty Affairs is not a decision-maker as provided in this policy and serves as a source of procedural information for both parties to a grievance as well as for individuals desiring information about the process. The Office of the Vice Provost for Faculty Affairs will also provide the administrative support for the Committee. In particular, all written communications will be channeled through the Vice Provost for Faculty Affairs office. All reports or submitted documents shall be sent to the Vice Provost for Faculty Affairs who shall distribute copies to the parties, the Committee, and/or the Dean, Provost or Chancellor, as appropriate.

The Provost is the decision maker as provided by this policy. In the case that the Provost and the Dean are one individual, the term "Provost" refers to that individual.

The Chancellor is the final arbitrator (refer to section 8) as provided in this policy. In the case that the Chancellor and a Dean are one individual, the term "Chancellor" refers to that individual.

The "Dean" refers to the Dean of the campus school in which the grievant is based.

On occasion, the Vice Provost for Faculty Affairs, Provost or Chancellor may be the respondent or have a conflict of interest. When the Vice Provost for Faculty Affairs is in such a situation, the Provost shall delegate that individual's responsibilities to the Diversity and Equal Opportunity Office. When the Provost is the respondent or has a conflict of interest, the Chancellor shall assume that individual's responsibilities. When the Chancellor is the respondent or has a conflict of interest, the President of the University or his/her designee shall be asked to identify substitutes.

The Chair is responsible for conducting meetings of the Committee. The Chair is also responsible for writing the final report of the Committee, but may share that activity with members of the Committee.

The Members of the Committee meet with and under the direction of the Chair to consider whether or not to hold a formal hearing ("Preliminary Meeting"), to hear the grievance ("Hearing"), and to develop a report summarizing their assessment and recommendations. Members of the Committee may also help the Chair in other activities.

(2) FACULTY GRIEVANCE COMMITTEE

2.1 Role

The Committee considers formal written grievances submitted by University of Massachusetts Medical School faculty members. The Committee shall function as an independent faculty body whose specific objectives are (1) to evaluate a grievance through a fact-finding and deliberative process, and (2) to make written recommendations to the Provost concerning disposition of the grievance.

2.2 Standards

The standard of review of a grievance by the Committee shall be twofold. First, the Committee shall determine whether appropriate campus and university academic policies and procedures have been followed in a particular case. Second, the Committee shall determine whether or not the alleged original decision or action which is the subject of the grievance was arbitrary or capricious and/or against the great weight of the credible evidence.

2.3 Quorum

A quorum of the Committee is a majority thereof. If any member of the Committee has a conflict of interest then the Faculty Council shall appoint, in a timely manner and in consultation with the Vice Provost for Faculty Affairs, a temporary replacement such that the Grievance Committee is comprised of the appropriate number of members as determined by the University of Massachusetts Medical School Governance Document (Document T03-035 as Amended by the Board of Trustees August 23, 2006) and subsequent amendments..

2.4 Conflict of Interest

No member of the Committee who has been directly involved in the personnel action which has given rise to the grievance shall participate in the capacity of Committee member in the deliberations of the Committee or in the conduct of the hearing. Such a Committee member shall withdraw from the grievance case either at the request of the grievant, the respondent(s) or the Chair, or on the member's own initiative. In addition, any Committee member who, while not having participated in the personnel action, deems him/herself disqualified because of conflict of interest, bias or other factors that may interfere with his/her ability to be an objective participant shall withdraw from the case. Final determination as to whether there is a conflict of interest shall be made by the Committee with the member with a potential conflict not voting. In the event of a tie vote, the Vice Provost for Faculty Affairs shall make the determination.

(3) PROCEDURE

3.1 Informal grievance

3.1.1 Process:

As an alternative to filing a formal grievance the faculty member/grievant is strongly encouraged to approach the Vice Provost for Faculty Affairs on an informal basis. The Chair may also be consulted by the parties involved, for example, on matters

concerning procedure, but not be consulted for advice on matters pertaining to the substance of the case. The involved individuals should attempt to resolve the grievance outside the formal grievance procedure whenever possible. However, this informal stage 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.

3.1.2 Initiation:

If the grievant chooses to participate in an informal stage, the grievant shall file a "letter of intent to file a grievance" with the Vice Provost for Faculty Affairs who shall promptly send copies to the respondent and to the Chair. This letter must be filed as a typed, hard copy paper document and should indicate the date of the offending action and give a brief summary of the general nature of the decision or action.

3.1.3 Deadline:

If the grievant first utilizes the informal grievance procedure, the parties must reach a resolution or terminate informal efforts within twenty-five (25) days of the filing of the letter of intent to file a grievance. If, at the informal stage, the parties directly involved in the grievance are unable to resolve the grievance, the party wishing to terminate the informal stage shall so notify the Vice Provost for Faculty Affairs in writing. If twenty-five (25) days pass without a resolution or termination by either party, the informal stage shall terminate automatically and the grievant shall notify the Vice Provost for Faculty Affairs of whether or not the grievant intends to proceed with a formal grievance.

All deadlines here and elsewhere within this policy can be extended provided the relevant parties (e.g., Chair, respondent, and grievant as appropriate) agree.

3.2 Formal written grievance

3.2.1 Filing:

The grievant may file a formal grievance with the Faculty Grievance Committee of the University of Massachusetts Medical School. The grievant filing a formal written grievance shall send such grievance to the Chair, who in turn shall send a copy of the written grievance to the Vice Provost for Faculty Affairs who will distribute it to other members of the Committee, to the Dean of the school in which the grievant is based and to the respondent(s). The grievance must be filed as a typed, hard copy paper document.

3.2.2 Content:

The grievant shall include in the written grievance: (1) the specific basis for the grievance i.e., in most instances, the personnel policy (or policies) and/or procedure(s) violated; (2) the particulars of the alleged violation; and (3) the remedy desired by the grievant.

In the case of an alleged "cumulative" grievance, the grievant must provide documentation to demonstrate that a series of adverse events has occurred, i.e., provide evidence that a *pattern* of adverse actions has occurred.

3.2.3 Deadline:

The deadline for filing a formal grievance is fifty (50) days from the time the grievant first knew of or reasonably should have known of the alleged violation and that it was grievable, or from the time of the most recent incident in a "cumulative" case. If the grievant has filed a letter of intent to file a grievance, the fifty (50) day deadline will be extended by the number of days expended in the informal resolution process up to a limit of twenty-five (25) days for informal efforts.

3.3 Preliminary Meeting

3.3.1 Scheduling:

A quorum of the Committee shall normally hold a preliminary meeting within fifteen (15) days of the receipt, by the Committee directly, or through its Chair, of a written formal grievance. The Committee may conduct that meeting by conference call. The meeting will be held to consider whether the committee will hold a hearing, what documentation, if any, might be sought, etc. The Committee may, at its discretion, extend this time period and shall notify the parties, through the Vice Provost for Faculty Affairs, of such an extension.

3.3.2 Preliminary Investigations:

Prior to the preliminary meeting, the Chair or her/his designee may, at that individual's discretion, pursue preliminary investigations in an attempt (1) to define the issues more clearly; (2) to arrive at stipulations of fact, i.e., identify and put in writing any points of agreement between the parties; (3) to provide for the exchange of documents or other information; and (4) to achieve such other appropriate prehearing objectives as will make the preliminary meeting fair, effective, and expeditious.

3.3.3 Acceptance or rejection of grievance:

The Committee, less any member who shall have a conflict of interest (see section 2.4), shall determine on the basis of the written formal grievance, and, at the Committee's option, on the basis of any other preliminary investigations, whether an issue has been raised which is grievable (i.e., whether the grievance would have merit if the allegations were true), and shall communicate to the Vice Provost for Faculty Affairs within seven (7) days of its preliminary meeting its decision on whether to conduct a formal hearing. In the event the Committee determines that no grievable issue has been raised and that therefore no formal hearing should be conducted, the Committee shall make such a decision in writing to the Vice Provost for Faculty Affairs who shall send a copy of the decision to the parties. The grievant will be provided a copy of any and all materials considered by the Committee in reaching its decision.

The Chair may, at her or his discretion, initiate an expedited version of the above. Such a review may involve an outright rejection of the grievance, for example, when deadlines have not been met or when the issue raised is determined by the Committee to be without merit.

If the Committee decides not to hold a formal hearing after its preliminary investigation or the Chair decides to reject the grievance outright, the grievant will be provided with a written letter as to why the process will not move forward and shall be allowed an opportunity to discuss with the Chair the basis for not going forward with the grievance.

In cases involving involuntary termination or denial of tenure, the grievant must not be denied a formal hearing by the Committee.

(4) CONDUCT OF HEARINGS

4.1 *Initiation and Scheduling*

Once the decision to conduct a formal hearing has been made, the Committee must initiate such a hearing expeditiously, normally within twenty-five (25) days. In the event that several grievants raise identical or nearly identical issues, the Committee may, with the approval of all parties, consolidate such hearings. The Chair or designee shall arrange the time and place of all hearings and shall so inform the Vice Provost for Faculty Affairs. The Vice Provost for Faculty Affairs shall then send (1) a written notice at least ten (10) days in advance of the hearings, and (2) a copy of the grievance procedure to the grievant and all respondents.

4.2 *Prehearing discussions*

The Chair or designee may, with the consent of the parties concerned, hold preliminary meetings with the parties in an attempt to (1) define the issues; (2) arrive at stipulations of fact (i.e. identity and put in writing any points of agreement between the grievant and respondent(s)); (3) provide for the exchange of documentary or other information, and (4) achieve such other appropriate prehearing objectives as will make the hearing fair, effective, and expeditious. Where the facts of the grievance are difficult to ascertain, the Committee may request written documentation from each party prior to such preliminary hearings. Copies of all documents shall be provided to all parties and the members of the Committee.

4.3 *Attendance at Hearings*

All hearings shall be open only to the Committee members, the grievant, the respondent(s), any faculty advocates, and any other persons presenting information. The grievant and any respondent may each enlist the assistance of one advocate. Such advocate(s) must be designated at the beginning of the hearing and may present the issues on behalf of the grievant or respondent as the case may be and may also serve as witness(es). Persons whose sole role is to present information may be present only while providing such information or answering questions, unless all concerned agree otherwise.

4.4 *Presentation of information*

The grievant may present oral or written statements or other information concerning his/her grievance to the Committee. Other individuals called to provide information to the Committee may likewise present oral and/or written statements or other information. Written statements and other written materials are preferred and must be submitted to the Chair at least

three (3) days in advance of the hearing date. If a statement will be read before the committee, that document must be also be submitted in written form in advance, and must not exceed 3000 words in length. The grievant and respondent may each present additional witnesses, provided that such witnesses can furnish new information relevant to the hearing as determined by the Committee. The Committee may, at its discretion, limit the number of witnesses and length of testimony.

The Committee shall not be bound by rules of legal evidence or procedure and may admit any information that the Committee deems relevant and reliable. If procedural issues arise that are not specifically covered in this document, the Committee shall have power to decide the course of action.

4.5 Attorneys

Neither the grievant nor any respondent(s) may have the assistance of attorney(s) during the grievance hearing including, but not limited to, attorney(s) who may be faculty members or employees of the University of Massachusetts Medical School who otherwise could serve as an advocate.

4.6 Role of Administration

The Administration of the University of Massachusetts Medical School shall secure cooperation of witnesses, assure when necessary a substantive reply from the respondent, and shall make available all documents and other relevant information as are necessary for the presentation of the grievant's or respondent's case or for the deliberations of the Committee, subject to applicable regulations under the Fair Information Practices Act (M.G.L. Chap. 66A sec. 1 et seq.).

4.7 Conduct of Hearing

The Chair shall conduct the proceedings and may limit them as deemed appropriate. The Chair shall not allow the reading of prepared statements not made available to all parties and the committee in advance of the hearing (see section 4.4 preparation of information). The parties and their advocates may ask direct questions of each other or of any witnesses. The members of the Committee may also ask questions and may provide information relevant to the hearing. Questioning may be limited at the discretion of the Chair. The Committee may seek additional information, including the calling of additional witnesses. At the discretion of the Chair, the committee may recess the hearing to seek additional information and testimony.

(5) WITHDRAWAL OR TERMINATION OF A GRIEVANCE

5.1 Withdrawal of a Grievance

5.1.1 Deadline:

At any point in the proceedings prior to the Committee submitting its report, the grievant may withdraw the grievance.

5.1.2 Procedure:

Notification of the withdrawal of the grievance shall be in writing to the Vice Provost for Faculty Affairs, who shall then notify the other party(ies), the Dean of the school involved, and the Committee.

5.2 Termination of a Grievance by the Committee

A grievance may be terminated by the Committee if the grievant fails to adhere to the time limits and procedures defined by this policy.

(6) PROTECTION AGAINST RETALIATION

No individual shall be penalized by the University for initiating or participating in the procedures described herein.

(7) FINDINGS AND RECOMMENDATIONS OF THE FACULTY GRIEVANCE COMMITTEE

The Committee shall submit a written report with recommendations to the Provost along with a copy to the Vice Provost for Faculty Affairs, normally within fifteen (15) days of the close of the grievance hearing. The written, signed report(s) shall include the findings of the Committee and its recommendation(s), if any, for such administrative action as deemed reasonable and appropriate by the Committee. The findings and recommendations of the Committee shall be based solely on the formal hearing and any stipulations of fact and/or other prehearing facts based on the procedure in section 4.2. The Vice Provost for Faculty Affairs shall send copies of the report to the grievant(s) and respondent(s), and to the Dean of the school involved.

The Provost will normally consult with the Dean of the school involved, and shall issue a written decision on the grievance normally within fifteen (15) days of receipt of the Committee's report.

Copies of said written decision shall be sent to the Chair, Vice Provost for Faculty Affairs, the respondent, the grievant, and the Dean of the School involved.

(8) APPEAL

8.1 Removal from Academic Appointment or Negative Tenure Decision

In the case of a grievance relating to removal from academic appointment or a negative tenure decision, the grievant may appeal the Provost's decision to the Chancellor who shall issue to the grievant a written decision on the grievance normally within twenty(20) days of receipt of the appeal. At the time an appeal is filed, notice of said appeal shall be sent by the grievant to the Vice Provost for Faculty Affairs, who shall send copies of the notice to the Chair and to the respondent. Following a review of the materials considered in section 7 above, a copy of the

Chancellor's written decision shall be sent to the Chair, to the Vice Provost for Faculty Affairs, the grievant, and the respondent.

8.2 *Timing*

In the case of an appeal referred to in section 8.1, the grievant must appeal the Provost's decision within twenty-five (25) days of receipt of that decision.

8.3 *Other Cases*

In all other cases not covered by section 8.1, the Provost's decision shall be final.

(9) REPORT OF COMMITTEE WORK TO THE FACULTY COUNCIL

The Chair and the Vice Provost for Faculty Affairs will report to the Faculty Council at the end of each academic year or more often the number of grievances filed, the number of grievances that went through the formal hearing process, the number of grievances where the Provost and the Committee were in agreement, and the number where there was disagreement. They can also report additional grievance information as appropriate.