Section 5	Faculty Policies	08/01/03 -Originated
Subject 5.3	Appointments and Rank	02/13/14 -Reviewed w/ changes - Reviewed w/o changes
Policy 5.3.8	**Faculty Grievance Policy**	02/13/14 -Effective
		Council of Deans -Author

Faculty Grievance Policy

Policy

This policy is not intended to, and it shall not, conflict with the rules and regulations of The University of Texas Board of Regents. In the event of conflict, the rules and regulations of The University of Texas Board of Regents shall control. The grievance process provides a means to resolve disputes that have not been resolved through the normal process of reasoned discussion. The grievance process is intended to define clearly the matters that are at issue; to assure the faculty member that his or her complaint or problem has been presented to and considered by appropriate University officials and bodies; and, to assure the University community that decisions involving faculty members in their relationship to the University are fully considered. A faculty member may utilize the services of the faculty ombudsperson throughout the grievance process.

Faculty members will not be reprimanded or discriminated against in any way for initiating a grievance in good faith. To the extent allowed by Texas law, grievance materials will be considered confidential. When revisions are made in this policy, all grievances will follow the policy that was in effect at the time the grievance was filed unless otherwise required by the U.T. System *Regents' Rules*.
The following actions or decisions are grievable under this policy:

1. Any issue bearing on the academic freedom of an individual faculty member;
2. Disciplinary actions which include actions such as suspension without pay, reduction in pay, demotion, written reprimand, and professional sanctions that are in writing and made part of the faculty member's personnel file;
3. Salary calculations under the Faculty Compensation and Incentive Plan;
4. Allegations of inequitable application of policies and procedures;
5. Assignment or reassignment of duties; or
6. The denial or withdrawal of a university benefit or privilege, including the use of university facilities, equipment, or support staff.

The following actions or decisions are not grievable under this policy because they are reviewable pursuant to other procedures provided by the university or they are addressed in other provisions of the

Policy, continued

Institutional Handbook of Operating Procedures ("IHOP") or the Regents' Rules and Regulations. These actions include, but are not limited to:

1. Complaints relative to discrimination if based on race, color, national origin, sex, age, religion, disability or sexual orientation, gender identity or expression, genetic information, or veteran status. See IHOP Policy 3.2.1, *Nondiscrimination, Equal Employment Opportunity and Affirmative Action*.
2. Decisions related to appointment, promotion, or tenure.
3. Non-renewals of tenure-track and non-tenure track faculty members. A faculty member grieving the non-renewal of a faculty appointment must file a grievance directly with the Provost.
4. Matters pertaining to fiscal management, staffing or structure of the University, non-academic matters pertaining to activities of administrative offices reporting to the president or vice presidents, or conditions that are clearly beyond the control of the University.
5. The substance of institutional IHOP policies or the Regents' Rules.

Informal Resolutions

Wherever possible, collegial and informal resolution of problems, such as through discussion, negotiation, and mediation is encouraged and should be facilitated.

Discussion and Negotiation

Prior to seeking relief and before a grievance complaint is filed, the faculty member is encouraged to attempt to resolve the dispute through discussion and negotiation privately or with the assistance of the faculty ombudsperson. These preliminary actions require no documentation.

Ombuds Services

The faculty ombudsperson may assist the faculty member through any or all of the following services:

1. Provide a confidential, objective place for faculty to discuss issues and possible resolution
2. Provide on-going counseling/coaching
3. Answer questions related to policy and options available
4. Assist in the development of plans to improve working relationships
5. Assist with difficult conversations

Informal Resolutions, continued

6. Investigate a situation at the request of a faculty member to aid in resolution
7. Make appropriate referrals to other UTMB services such as mediation
8. Assist faculty member in developing required documentation if informal resolution is unsuccessful
9. Apprise administration of significant trends
10. Recommend changes in policies and procedures

The faculty ombudsperson may not do the following:

1. Provide legal advice or representation
2. Represent or advocate at any grievance, disciplinary or judicial procedure
3. Assist with non-university related issues
4. Make policy
5. Receive official "notice" to the university
6. Disclose information provided in confidence
7. Maintain official records

See also IHOP 5.3.14, Faculty Ombudsperson Policy and role description.

Mediation

Mediation is encouraged at any time a difficult problem or dispute is encountered, and may be used at any point. Following the identification of a problem, and once informal discussion or negotiation has been unsuccessful; either party to a dispute can request mediation by directly contacting Employee Relations. If both parties agree to mediate, the mediation service (which is coordinated through the Human Resources Department/Employee Relations Department) will complete the mediation process in a timely fashion. If at any time during the mediation period the mediator believes the parties cannot reach agreement, the parties shall be so informed and the mediation effort shall be discontinued unless both parties request that mediation continue.

Regardless of the mediation outcome, all parties shall respect University policy and state law regarding the confidentiality of the mediation proceedings. The only record of the mediation maintained by the University will be the date mediation occurred and whether an agreement was reached. Employee Relations will maintain this record. Each party to the dispute will receive a written copy of any

Informal Resolutions, continued

agreement reached.

Unit/Department Resolution

If attempts at discussion, negotiation, and/or mediation are unsuccessful, the faculty member should contact his or her unit leader (e.g., division chief, department chair) personally or through faculty ombudsperson to discuss the situation informally. After communicating with the faculty member and/or ombudsperson, the unit leader may attempt to resolve the issue within the unit or may recommend mediation if it has not been attempted. If there is no satisfactory resolution by a unit leader and mediation is not being pursued, the faculty member may take the matter to the next level reporting official. These steps, while encouraged, are not mandatory.

Matters brought before the next level reporting officials should be satisfactorily resolved within ten (10) business days. A satisfactory resolution connotes a decision or action plan intended to resolve the matter in a satisfactory manner with an acceptable timetable for implementation.

1. If no satisfactory resolution occurs at this level and mediation has failed or is not being pursued, the faculty member may file a formal grievance with the Employee Relations Office of Human Resources. The faculty member should remain aware of the formal grievance filing deadline.
2. If informal negotiations are proving fruitful, the faculty member should request from the Director of Employee Relations a formal extension of his or her formal grievance filing deadline.

Formal Grievance Process

A grievance must be submitted in writing no later than sixty (60) calendar days from the time the event initiating the grievance occurred or from the time that the faculty member, with due diligence, should have become aware of the action causing the grievance. If the faculty member has begun efforts to resolve the complaint informally, the sixty (60) calendar day time period will not begin until the informal efforts are exhausted. The faculty ombudsperson will make the final decision on when the sixty (60) calendar days begin. The written grievance documentation should express in factual terms its basis and the remedy sought. It must also contain details of any informal attempts to resolve the dispute, but cannot reveal the substance of any discussions that occurred during mediation.

Formal Grievance Process, continued

Employee Relations will have up to five (5) business days to review the grievance and make a decision as to whether the complaint is grievable under this policy. If the determination is made that the complaint is grievable and mediation is unsuccessful or not feasible, the employee relations staff will coordinate the grievance process. If Employee Relations has determined that a complaint is not grievable, the faculty member or ombudsperson, may notify the complainant that it is not grievable.

If the complaint is grievable under this policy, Employee Relations shall forward the grievance to the dean of the school to which the faculty member is appointed. The dean will work with Employee Relations and ensure that the grievance is investigated. At the conclusion of the investigation, the dean shall make a determination based on the merits of the case.

Grievances directly involving actions or inactions by deans will be forwarded to the Provost for disposition. The Provost will have the same options and time requirements for disposition as defined below for the dean. If the grievance involves the Provost, the grievance will go directly to the Faculty Grievance Board. The dean must notify the faculty member within ten (10) business days following receipt of the grievance of his/her decision.

Once the Provost has issued a decision on the grievance, the faculty member has ten (10) business days to consider the decision and notify the dean in writing that the decision is acceptable or unacceptable and that he/she wishes to have the grievance reviewed by the Faculty Grievance Board. If such notice is not received during this ten (10) day period, the university will consider the matter satisfactorily resolved and the case will be officially closed.

If notice is received during the ten (10) day period, the Provost must refer the grievance to the Faculty Grievance Board within five (5) business days.

The Faculty Grievance Board

The role of the Faculty Grievance Board is to be an advocate for the grievance process but neutral with respect to the parties.

The Faculty Grievance Board will be comprised of representatives from each school, the number being in proportion to the total number

Formal Grievance Process, continued

of faculty currently serving as full-time UTMB faculty members. Eight (8) members will be from the School of Medicine, four (4) members will represent the Graduate School of Biomedical Sciences, four (4) members will be selected to represent the School of Nursing and four (4) members will be selected to represent the School of Health Professions. The deans of each school will recommend **a total of twenty (20)** representatives to serve on the board from among those full time tenured members of the faculty who are not on leave. An additional 20 representatives will be nominated by the Faculty Senate from among the full-time tenured members of the faculty who are not on leave. These representatives will not be current members of the Senate. The President will review and appoint at least ten (10) board members from those recommended by the deans and at least ten (10) board members from the list recommended by the Faculty Senate. Members will serve for three (3) years with the terms of appointment staggered so that one-third of the members' terms will expire each year. The Faculty Grievance Board will recommend a chair and vice-chair to the President from among its members. The chairperson and vice-chair must be from different schools. Board members serve a maximum of six (6) consecutive years.

Upon receipt of a grievance, The Chair of the Faculty Grievance Board will determine if a conflict of interest exists for the Chairperson. In cases involving a conflict of interest for the chairperson of the Faculty Grievance Board, the vice-chairperson will serve and select the hearing panel.

Faculty Grievance Hearing Panel

For each grievance set for hearing, the chair of the Faculty Grievance Board will select three (3) members for service on the Faculty Grievance Hearing Panel. An attempt will be made to select faculty members who hold a rank equivalent to or higher than that of the faculty member filing the grievance and to avoid the assignment of panelists who may have a conflict of interest.

Hearing panels should ordinarily consist of members representing more than one school. The Graduate School of Biomedical Sciences, School of Nursing, and School of Health Professions shall nominate five (5) panel members to serve on the hearing panel. The School of Medicine shall nominate up to one (1) panel members from each department to serve on the hearing panel. Members of the Faculty

Formal Grievance Process, continued

Grievance Board are not eligible to serve on the hearing panel.

The chair of the Faculty Grievance Board shall appoint the panel within ten (10) business days of the receipt of the grievance and notify both parties of the composition of the panel. The chair of the Faculty Grievance Board will designate a chair for the Hearing Panel. The Hearing Panel will convene to hear the grievance within sixty (60) calendar days unless all parties and the Hearing Panel agree to an extension.

Any newly appointed member of the hearing panel who believes that he or she has a conflict of interest or inability to be impartial regarding the matter being grieved should notify the chair of the Faculty Grievance Board of this conflict and should recuse him or her from participation. The chair of the Faculty Grievance Board shall make the final determination of whether a panel member has a conflict. Each party to the grievance may challenge the service of any member of the Hearing Panel on the basis of a conflict of interest. Such a challenge must be made in writing to the chair of the Grievance Board within five (5) business days of receipt of the notice of the Panel membership. Receipt will be presumed unless the faculty member is on leave or on approved travel. The chair of the Faculty Grievance Board shall rule on all challenges and her/his decision shall be final.

All hearings will be recorded using an electronic recording device.

The hearing procedures shall be conducted in accordance with the Faculty Grievance Hearing Panel Procedures Guide.

After the Hearing

The Hearing Panel shall determine its findings and recommendations based upon a vote of a majority of the members. The panel shall prepare a written report of its findings, including the reasons for the findings, its recommendations, and any dissenting views.

1. If the appeal is from a decision of a dean then this report shall be forwarded to the Provost.
2. If the Provost is the Dean who initially heard the grievance, then the report will be presented to the President.
3. If the appeal is from a decision of the Provost, then the report shall be presented to the President.

Formal Grievance Process, continued

The report and recommendation of the Hearing Panel shall be sent to the Provost or President within ten (10) business days after the conclusion of the hearing. Within thirty (30) calendar days, the recipient of the Hearing Panel's report and recommendation (*i.e.*, the Provost or the President) shall report in writing to both parties to the grievance and to the Chair of the Faculty Grievance Board his or her decision in the matter, an explanation of that decision, and what remedial action, if any, will be taken. A copy of the report and recommendation of the Hearing Panel will be sent to both parties at this time as well.

1. If the decision was made by the President, the decision is final.
2. If the decision was made by the Provost, either party can appeal this decision to the President by delivering a written appeal to the Office of the President within ten (10) business days of the date of the Provost's decision. Upon such appeal, all written decisions in the grievance process shall be forwarded to the President for review. The decision of the President is final.

Follow-up on the Report and Recommendations

The Provost or designee is responsible to follow-up on the report and recommendations.

References

IHOP Policy 3.2.1, Nondiscrimination, Equal Employment Opportunity and Affirmative Action.
IHOP Policy 1.1.2, Rules and Regulations of the Board of Regents
IHOP 5.3.14, Faculty Ombudsperson Policy
IHOP 3.1.10, Employee Grievance Policy
IHOP 5.1.1, Rights and Responsibilities of Faculty Members