

Faculty Chapter Nine

Reviewing Faculty Concerns

Part A. Faculty Senate Hearing Committee.

FAC 9.A.1. Faculty Hearing Committee.

The Faculty Senate shall establish a standing Faculty Hearing Committee comprised of all tenured faculty members.

FAC 9.A.2. Formation of Faculty Hearing Subcommittees.

The chairperson of the Faculty Hearing Committee will select by random procedure subcommittees of five members for the purposes of considering individual cases. The chairperson of the Faculty Hearing Committee will select by random procedure one affirmative action representative to serve on each hearing subcommittee. Affirmative action representatives are non-voting members of the hearing subcommittee. Such subcommittees will be selected as soon as possible by the committee chair during periods when the University is in session.

- (1) Members of the Faculty Senate Hearing Committee shall be identified as the tenured members of the University faculty who do not hold limited appointment. This designation shall be made by the Executive Committee of the Faculty Senate at the beginning of the Fall term in each academic year.
- (2) At the beginning of the Fall term, the Council for Equity and Affirmative Action shall forward a list of 6 tenured faculty to serve as affirmative action representatives to hearing subcommittees. They shall be nominated from among the tenured members of the University faculty who do not hold limited appointment and who have specific training in affirmative action matters. Nominations shall be made by the Council for Equity and Affirmative Action and forwarded to the Faculty Senate Executive Committee. The Faculty Senate Executive Committee shall submit these nominations to the Faculty Senate for confirmation and announce the affirmative action representatives of the Faculty Hearing Committee to the university community.
- (3) The Faculty Senate Executive Committee shall propose to the Senate for ratification a chairperson and a vice chairperson from among the tenured faculty. They will serve for a three-year, staggered term with the first person appointed as vice chair serving for only two years. The chairperson of the Faculty Hearing Committee shall not serve as member of any new hearing subcommittee, but shall complete service on an existing committee.
- (4) Upon the formation of a subcommittee to consider an individual case, the chairperson of the Faculty Hearing Committee shall appoint the subcommittee chairperson from among its members. An affirmative action representative may not serve as subcommittee chairperson.
- (5) If, through attrition, the number of available affirmative action representatives should fall below three members, the Council for Equity and Affirmative Action shall nominate immediately sufficient additional members to bring the number of available representatives to full strength. The new representatives shall be selected as outlined above.
- (6) After selection, affirmative action representatives shall serve for terms of one year duration. Notwithstanding, affirmative action representatives shall be expected to complete service on existing subcommittees, irrespective of their term of appointment.
- (7) No member of the Faculty Hearing Committee or affirmative action representative shall serve simultaneously on more than one subcommittee hearing individual cases. No individual shall serve in the dual role as subcommittee member and affirmative action representative on a hearing subcommittee.

FAC 9.A.3. Procedures for Subcommittees.

If a hearing is determined to be necessary, all subcommittees shall operate in a manner consistent with the general procedural requirements listed in this session. Additional procedural requirements for hearing

1 cases of various kinds shall be imposed as indicated in the several chapters of this document. Minimal
2 requirements to guarantee adequate due process and to assure procedural uniformity are as follows:

- 3 (1) At the request of the Faculty Hearing Subcommittee and with the concurrence of the Chancellor,
4 the University shall provide legal counsel to the subcommittee. All parties shall be notified if the
5 subcommittee is to be provided legal counsel.
- 6 (2) The faculty member concerned shall be assured of a fair hearing, which shall include the right to
7 present testimony in his/her behalf, the right to offer witnesses, the right to cross examine adverse
8 witnesses, and the right to be counseled and/or represented by any persons of choice. [In cases
9 where there are multiple counselors/representatives, the committee may restrict discussion of
10 such major issue to a single counselor. Determination of whether more than one coun-
11 selor/representative should address an issue should be a procedural unappealable determination
12 of the committee.]
- 13 (3) The role of the affirmative action representative is to be the proponent of affirmative action and
14 equal opportunity principles during subcommittee hearings and deliberations. It is not the role of
15 the affirmative action representative to be an advocate for any party directly involved in the hear-
16 ing.
- 17 (4) If the hearing concerns personnel decisions, the department or functional equivalent of the faculty
18 member concerned shall be consulted and shall have the opportunity to present evidence or tes-
19 timony through the department chairperson or other representative.
- 20 (5) The following applies except in cases of layoff governed by UWS 5.12(2) or dismissal governed
21 by UWS 4.06(1)d. Either party in that hearing may request the disqualification of any member of
22 the hearing subcommittee or affirmative action representative for cause. The request, together
23 with a statement of the cause for disqualification shall be submitted in writing to the chairperson of
24 the Faculty Hearing Committee. If the request is to remove a subcommittee member the decision
25 will be made by the chairperson of the Faculty Hearing Committee in consultation with the chair-
26 person of the Council for Equity and Affirmative Action. If the request is to remove an affirmative
27 action representative the decision will be made by the chairperson of the Council for Equity and
28 Affirmative Action in consultation with the chairperson of the Faculty Hearing Committee. If the
29 request is honored, the chairperson of the Faculty Hearing Committee shall designate a replace-
30 ment unless in his/her opinion the dismissal occurs after a significant portion of the hearing has
31 taken place. In that event, the remaining members of the subcommittee shall continue to hear the
32 case.
- 33 (6) No faculty member who participated in initiating, formulating, investigating or filing allegations or
34 charges or who is a member of the concerned faculty member's department or equivalent or who
35 is a material witness shall be qualified to sit on a hearing committee or to serve as affirmative ac-
36 tion representative.
- 37 (7) Hearings shall be subject to State of Wisconsin Open Meetings Laws.
- 38 (8) A tape recording or other verbatim record shall be made of all formal hearings. Upon written re-
39 quest to the Chancellor, copies of such records of all open hearings shall be made available at no
40 cost to the faculty member. The university shall bear the cost of preparing any record.
- 41 (9) All hearings of the subcommittee shall be on the record.
- 42 (10)The subcommittee shall have free access to any documentary evidence it believes to be perti-
43 nent, including public records, personnel files of the faculty member, and official documents spe-
44 cifically requested by the subcommittee and shall have the right to summon such witnesses as
45 necessary to assure a fair hearing.
- 46 (11)The Faculty Senate President, Chairperson of the Hearing Committee, and Chancellor shall assist
47 subcommittees in obtaining such witnesses and such documents as are required for the proper
48 conduct of hearings.
- 49 (12)The hearing subcommittee shall not be bound by common law or statutory rules of evidence and
50 shall follow rules and procedures contained in the most current edition of Sturgis' *Standard Code*
51 *of Parliamentary Procedure*. The subcommittee may admit evidence having reasonable probative

1 value but shall exclude immaterial, irrelevant or unduly repetitious testimony, and shall give effect
2 to recognized legal privileges.
3 (13) The faculty member appealing a decision will have access at least 10 days before the deadline for
4 filing the appeal to all specifically identified documents on the basis of which the adverse decision
5 being appealed was made.

1 **Part B. Faculty Complaints.**

2 **FAC 9.B.1. UWS 6.01 {Complaints} of the *Wisconsin Administrative Code*, Rules of the Board of**
3 **Regents.**

4 **UWS 6.01 Complaints.**

5 The faculty of each institution, with the approval of the Chancellor, shall establish rules and procedures to
6 deal with allegations by the administration, students, academic staff members, other faculty members,
7 classified staff members, or members of the public concerning conduct by a faculty member which violates
8 university rules or policies, or which adversely affects the faculty member's performance of his/her obliga-
9 tion to the university but which allegations are not serious enough to warrant dismissal proceedings under
10 ch. UWS 4. Such rules and procedures shall include, but not necessarily be limited to, the following:

- 11 (1) Review of and administrative action on the complaint by the Chancellor. Administrative action
12 may include dismissing the complaint, invoking an appropriate disciplinary action, or referring the
13 complaint to the standing faculty committee created under sub. (2).
- 14 (2) Provision for a hearing before a standing faculty committee selected by the faculty of each institu-
15 tion in such manner as they shall determine. Such hearing shall be held at the request of the
16 Chancellor or, if the Chancellor invokes a disciplinary action, at the request of the faculty member
17 concerned.
- 18 (3) Guarantee of adequate due process to include, but not limited to, written notification of the com-
19 plaint, fair and complete hearing procedures, written statement of findings, transmittal of findings
20 to the faculty member involved and appropriate administrative officials within a reasonable period
21 of time, and prohibition of further jeopardy for the same alleged misconduct after a final decision.
- 22 (4) Delineation of the powers of the faculty committee to make recommendations to the Chancellor
23 concerning disciplinary action, to recommend dismissal of the complaint, or to recommend referral
24 of the complaint to the appropriate department or administrative officer.
- 25 (5) The decision by the Chancellor on the recommendations of the committee, or on the complaint in
26 the absence of committee recommendation, shall be final except that the board at its option might
27 grant a review on the record.

28 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75.

29 **FAC 9.B.2. Definition and Purpose.**

30 A formal complaint expresses an objection to perceived misconduct and seeks disciplinary action against
31 the offender. The purpose of this procedure is to provide a means by which administrators, students, aca-
32 demic staff members, other faculty members, classified staff members or members of the general public
33 may bring a complaint against the conduct of a faculty member.

34 **FAC 9.B.3. Complaints Against Faculty Members.**

35 Complaints may be brought against faculty members for conduct which violates university rules or policies
36 or which adversely affects the faculty member's performance of his/her obligation to the university but
37 which allegations are not serious enough to warrant dismissal proceedings under UWS 4. The Chancellor
38 shall determine after receiving the complaint whether it is to be considered under this part or the section of
39 these rules titled "Faculty Dismissal."

40 (1) Form of a Complaint.

41 Complaints shall be written and signed by the complainant. They shall identify the acts which al-
42 legedly violate university rules or policies or breach the faculty member's obligations, and they
43 shall specify the rules or policies which have allegedly been violated or the obligations allegedly
44 breached.

45 (2) Complaint Procedures.

46 (a) Upon receiving a complaint the Chancellor shall determine whether it warrants further con-
47 sideration. If the Chancellor decides to reject the complaint at this stage, he or she shall so
48 notify the complainant and shall explain the reasons why the complaint has been rejected. If
49 the Chancellor decides to accept the complaint, he or she shall send a copy of the complaint

- 1 to the faculty member it names and shall request a written response to the complaint within
2 ten working days.
- 3 (b) Upon receipt of the faculty member's response or after ten working days have passed without
4 a response, the Chancellor may dismiss the complaint or initiate a formal review of it. In the
5 formal review, if any, the Chancellor shall examine all pertinent documents and interview all
6 persons likely to have knowledge about the conduct in question and in general shall afford
7 both the complainant and the respondent full and fair opportunity to show why the complaint
8 should be prosecuted further or dropped. The Chancellor may appoint a designate to carry
9 out the formal review and recommend appropriate action upon the complaint.
- 10 (c) Within twenty working days of initiating a formal review, the Chancellor shall take one of the
11 following actions on the complaint and shall inform both the complainant and the respondent
12 of the action:
- 13 1. Dismissal of the complaint;
14 2. Invocation of a sanction against the respondent; or
15 3. Referral to the Faculty Hearing Committee.
- 16 (d) If the complaint is dismissed, the faculty member shall not be subjected to further jeopardy for
17 the same alleged misconduct.
- 18 (e) If the Chancellor invokes a sanction, he/she shall inform the faculty respondent of the rea-
19 sons for his/her decision.
- 20 (f) If there is administrative disciplinary action, this may include sanctions such as:
- 21 1. Oral admonishment
22 2. Written reprimand
23 3. Requirement for restitution
24 4. Suspension of specific privileges
25 5. Reduction in salary; or
26 6. Reduction in rank
- 27 (g) Before invoking any sanction, the Chancellor will consult with the Executive Committee of the
28 Faculty Senate about the appropriateness of the proposed sanction. If the Executive Commit-
29 tee and the Chancellor disagree about the appropriateness of the sanction, the Chancellor
30 will inform the committee in writing of his/her reasons for thinking the proposed sanctions ap-
31 propriate.
- 32 (h) Sanctions shall be subject to review by the Faculty Hearing Committee, upon request by the
33 faculty member. If the Chancellor rejects the recommendations of the hearing subcommittee,
34 he or she shall provide the subcommittee and the Executive Committee of the Faculty Senate
35 with a written statement of his/her reasons for rejecting the findings of the hearing subcom-
36 mittee.
- 37 (i) Within ten working days of receiving notice from the Chancellor of administrative invocation of
38 disciplinary action, the faculty member may file a request for review by the Faculty Hearing
39 Committee. Should such a review be requested, the implementation of the administrative
40 sanction shall be stayed pending the final decision by the Chancellor after receipt of the rec-
41 ommendation of the hearing subcommittee.
- 42 (j) If the Chancellor refers a complaint to the Faculty Hearing Committee, or if the faculty mem-
43 ber requests such referral after administrative invocation of disciplinary action, the subcom-
44 mittee shall follow the procedures outlined in the sub-chapter titled "Faculty Senate Hearing
45 Committee." Normally, the hearing shall be completed within thirty working days. If the hear-
46 ing committee is required by extenuating circumstances to extend the hearing beyond thirty
47 days, it shall file with the chairperson of the Faculty Hearing Committee and the president of
48 the Faculty Senate a statement of the reasons why it must extend the timeliness for the hear-
49 ing and a tentative timetable for completing its hearing on the complaint.

- 1 (k) The findings and recommendations of the hearing subcommittee shall be transmitted to the
2 faculty member, the complainant, and the Executive Committee of the Faculty Senate for
3 submission to the Chancellor. The hearing subcommittee shall recommend to the Chancellor
4 either dismissal of the complaint, specified disciplinary action such as indicated in section (f),
5 above, or referral to a department or administrative officer for appropriate action.
- 6 (l) The Chancellor shall render a formal, written decision to the faculty member, the complainant,
7 appropriate university officers and, for information only, to the Executive Committee of the
8 Faculty Senate within ten working days of receipt of the recommendation from the Executive
9 Committee. If the Chancellor fails to accept the recommendations of the hearing subcommit-
10 tee, he or she shall provide the subcommittee, the chairperson of the Faculty Hearing Com-
11 mittee, the Executive Committee, and the principals in the complaint with a written rationale
12 for rejecting the subcommittee's recommendations.
- 13 (m) At the request of the faculty member, the Board of Regents, at its option, may choose to grant
14 a review of the decision on the record.

1 **Part C. Faculty Grievances.**

2 **FAC 9.C.1. UWS 6.02 {Grievances} of the *Wisconsin Administrative Code*, Rules of the Board of**
3 **Regents.**

4 **UWS 6.02 Grievances.**

5 The faculty of each institution shall designate a committee or other appropriate faculty body to hear faculty
6 grievances under rules and procedures established by the faculty of the institution in conjunction with the
7 Chancellor. The committee or faculty body shall have the power to conduct hearings and fact-finding re-
8 lated to the grievance and to recommend solutions to the grievance to the Chancellor. If the committee or
9 other body makes recommendations to the Chancellor, the Chancellor shall act on the recommendations
10 within 30 days. The decision by the Chancellor on the recommendation of the committee, or on the griev-
11 ance in the absence of committee recommendation, shall be final except that the board, upon petition of a
12 grievant or the committee or other faculty body, may grant a review on the record.

13 History: Cr. Register, January, 1975, No. 229, eff. 2-1-75; am. Register, April, 1989, No. 400, eff. 5-1-89.

14 **FAC 9.C.2. Definitions.**

- 15 (1) The term "grievance" is used in two senses here. It denotes first the distress or dissatisfaction
16 caused by perceived unfair treatment or violation of rights or in general unsatisfactory working
17 conditions. It also denotes a formal appeal for relief from such distress or dissatisfaction. Any
18 grievance in the first sense may be the subject of a formal grievance unless it is a reaction to sub-
19 stantive academic judgments made in the course of evaluating faculty for renewal, tenure, promo-
20 tion, salary adjustments or other such personnel decisions.
- 21 (2) As a formal statement, a grievance differs from a complaint in focusing upon the undue effects
22 experienced by the grievant rather than upon the alleged misconduct of another and in seeking
23 relief for the grievant rather than punishment for an offender.

24 **FAC 9.C.3. Grievance Procedure.**

- 25 (1) An aggrieved faculty member shall seek to eliminate the cause of the grievance by informal
26 means, via discussion or consultation or an exchange of correspondence. If the informal effort
27 fails to resolve the problem to the satisfaction of the faculty member, he or she may file a written
28 grievance containing the information described in FAC 9C.4., below. Two or more faculty mem-
29 bers with identical grievances may file the formal grievance jointly.

30 Formal grievances should normally be filed with the Dean of the aggrieved faculty members col-
31 lege. If a grievance concerns actions of the Dean or other administrators who report to the Vice
32 Chancellor, the grievance shall be filed with the Provost and Vice Chancellor. If the grievance
33 concerns actions of the Provost and Vice Chancellor or other administrators who report to the
34 Chancellor, it shall be filed with the Chancellor.

35 A formal grievance must be filed within sixty calendar days of the date upon which the grievant
36 became aware of the action(s) or condition(s) being grieved, unless the time for filing is extended
37 by the agreement of all parties to the grievance. The amount of time consumed by informal efforts
38 to resolve problems or by college or departmental grievance procedures shall not affect the dead-
39 line for filing a formal grievance under this chapter.

- 40 (2) All grievances shall undergo administrative review, as follows. Within ten working days after re-
41 ceiving a written grievance, the administrator or his/her designate shall initiate a review of the
42 grievance, interviewing all persons thought to be knowledgeable about the grievance and examin-
43 ing all pertinent documents. The person conducting the review shall then prepare a formal written
44 response to each specification of the grievance and shall forward his/her response, together with
45 copies of all documents considered during the review, to the grievant and to all persons whose
46 actions have been grieved and to the chairperson of the Faculty Hearing Committee. The formal
47 response shall be submitted within thirty days after the review has begun unless the deadline is
48 extended by mutual agreement of the grievant and the administrator responsible for the review.
- 49 (3) If the administrative review fails to resolve the problem to the satisfaction of the grievant, the
50 grievant may file a request for review by the Faculty Hearing Committee. If the request follows

1 administrative review, it must be filed within ten working days after the grievant has received no-
2 tice of the results of the administrative review.

3 Following the procedures outlined in the sub-chapter titled "Faculty Senate Hearing Committee,"
4 the chairperson of the Faculty Hearing Committee shall convene a subcommittee of five faculty
5 who shall review the grievance and within ten working days determine if there exist sufficient
6 grounds for a hearing. If the subcommittee decides to deny the grievant a hearing, its chairperson
7 shall inform the grievant in writing of the reasons for the denial and shall distribute copies of its ra-
8 tionale to the Chancellor and other parties to the grievance. If the subcommittee decides that a
9 hearing is warranted, it shall conduct its hearing in accord with the procedures outlined in the sub-
10 chapter titled "Faculty Senate Hearing Committee." It shall complete its hearing within thirty work-
11 ing days unless because of extenuating circumstances the deadline is extended by mutual
12 agreement of the grievant and the chairperson of the subcommittee or by order of the subcommit-
13 tee. At the conclusion of the hearing, the subcommittee shall transmit its findings and recommen-
14 dations to the grievant and to other parties to the grievance and to the Executive Committee of
15 the Faculty Senate for submission to the Chancellor.

- 16 (4) Within thirty days after receiving the recommendations of the hearing subcommittee, the Chancel-
17 lor shall render a formal, written decision on the grievance. Copies of the Chancellors decision
18 shall be sent to the grievant, other parties to the grievance, the members of the hearing subcom-
19 mittee, and the Executive Committee of the Faculty Senate.

20 **FAC 9.C.4. Required Form for the Presentation of Grievances.**

- 21 (1) A description of the acts or conditions which gave rise to the grievance and the dates upon which
22 the acts or conditions occurred or were made known.
- 23 (2) An explanation of the ways in which the acts or conditions constitute unfair treatment or violation
24 of rights or otherwise are injurious to the grievant.
- 25 (3) Evidence to support the statements in a and b above.
- 26 (4) A statement of the relief sought by the grievant.
- 27 (5) An account of the informal efforts undertaken to remedy the grievance and an explanation of why
28 the grievant considers the efforts to have been unsuccessful.

29 **FAC 9.C.5. Records.**

30 All documents submitted in support of a grievance shall become part of the permanent record, and shall
31 accompany the grievance through all steps of consideration.

32