

Faculty Grievance Policy

[\(Board of Visitors Policy\)](#)

NUMBER:	1470
APPROVED:	June 15, 1978; Revised May 15, 1982; Revised June 15, 1989; Revised November 14, 1990; Revised June 22, 1995; Revised December 4, 2014 (eff. 1/1/15); Reviewed and Approved with No Changes April 22, 2022
SCHEDULED REVIEW DATE:	April 2027

I. General

A. Purpose

The purpose of this policy is to supplement the administrative and academic procedures of Old Dominion University and to provide a grievance procedure which will insure academic due process and fair treatment for faculty.

B. Application

Only faculty under full-time teaching and research contracts and professional librarians may use the procedure described in this policy. A teaching and research administrator with departmental designation may use the procedure but only to grieve, in accordance with the requirements described herein, an action concerning the academic promotion of or the award of tenure to that administrator.

C. Definition of Grievance

As used in this policy, a grievance is an allegation by a faculty member that he or she has suffered direct injury as a result of the following:

1. An action, refusal to act, or a failure to act by an administrative officer of the university which deviated materially from the existing policies or procedures of the university; or
2. An action, refusal to act, or a failure to act by an administrative officer of the university which was arbitrary, capricious, unreasonable, or contrary to the facts.

"Administrative officer," as used in this policy, refers to any individual exercising administrative authority, including, but not limited to, a department chair or a program director.

D. Remedies

1. Except as otherwise provided herein, a faculty member who chooses to grieve under this policy may seek any remedy appropriate to the grievance which the university has the authority to provide.
2. The remedy available to a faculty member who chooses to grieve a personnel action, i.e., a nonreappointment, promotion, evaluation, salary increment, a decision not to award tenure, or appointment to emeritus status, is the initiation of a proper reconsideration of that decision through the applicable procedures of the university.

E. Limitations Upon the Application of the Grievance Policy

1. Except as provided in I. E. 3 herein, a faculty member must exhaust existing administrative or academic procedures for review of an action about which the faculty member chooses to grieve prior to filing a grievance under this policy.
2. An action concerning the imposition of a sanction upon a faculty member or the dismissal of faculty from employment member due to a financial exigency, etc. must be reviewed in accordance with the applicable policies for review of such an action and may not be reviewed under this Grievance Policy unless the applicable policies so provide.
3. An action concerning the promotion of a faculty member or the award of tenure to a faculty member must be grieved by that faculty member after action by the provost and vice president for academic affairs but before the faculty member's request for review by the president.
4. An action concerning the promotion of a faculty member, the nonreappointment of a faculty member, or the award of tenure to a faculty member only may be grieved by that faculty member upon the ground that there was a material deviation from the applicable procedures of the university during the process leading to the action.

F. Maintenance of Records

1. The complaint and all records developed during the investigation of the complaint shall be considered confidential and shall not be released except as required by law or by the provisions of this policy.
2. The complaint and all records developed during the investigation of the complaint shall be retained in the University Counsel's Office for a period of three years after the date of the final determination. Records developed as a result of the grievance will be filed separate from the faculty member's official personnel file. Thereafter the records shall be destroyed unless state or federal action is pending.

II. Informal Resolution of a Grievance

- A. A faculty member who chooses to grieve under this policy should first discuss the matter with the administrative officer whose action or failure to act is the basis for the grievance.

- B. If the discussion does not produce a resolution, the faculty member may request mediation provided by the Faculty Mediation program through the Faculty Ombudsman Office.
- C. If, as a result of the faculty member's discussion with the administrative officer, the matter is not resolved to the faculty member's satisfaction, the faculty member shall discuss the matter with the immediate supervisor of the administrative officer whose action is the basis of the grievance. The faculty member shall not discuss the matter with the immediate supervisor of the administrative officer if the immediate supervisor is the president.
- D. If, as a result of these discussions and/or mediation, the matter is not resolved to the faculty member's satisfaction, the faculty member may proceed to formal resolution of the grievance.

III. Formal Resolution of a Grievance

A. Written Statement of Grievance

- 1. A faculty member shall initiate formal resolution of a grievance by filing a written statement of grievance with the chair of the Faculty Grievance Committee.
- 2. The written statement filed electronically by the faculty member shall contain, as a minimum, the following:
 - a. a description of the action, refusal or failure to act by the administrator that the faculty member is grieving;
 - b. the grounds upon which the faculty member is grieving the action, including an identification of the applicable policy or procedures, if any;
 - c. any steps taken toward informal resolution, such as mediation;
 - d. a description of the events leading to the action, refusal or failure to act the faculty member is grieving;
 - e. a statement of the injury suffered by the faculty member and the date thereof; and
 - f. a statement of the remedy sought by the faculty member.
- 3. The written statement should be no longer than 1,000 words.
- 4. The faculty member should attach to the written statement copies of relevant documentation.
- 5. Except in cases involving personnel actions, the written statement of grievance shall be filed with the chair of the Faculty Grievance Committee within ninety (90) days of the date that the faculty member suffers the alleged injury. In those exceptional cases when the faculty member can demonstrate that he or she did not know, or have reason to know, of the grievance within ninety (90) days, the Grievance Committee may extend this period to one hundred and eighty (180) days. If the faculty member's

grievance concerns a series or pattern of injurious decisions, the period shall run from

that date of the latest alleged injury; however, the committee may review all of the decisions in the alleged pattern and the committee may make recommendations concerning all of the decisions in the alleged pattern if it finds that such a pattern did exist and that any incident of the pattern occurred within the number of days specified herein.

6. In a case involving a personnel action, i.e., a nonreappointment, promotion, evaluation, salary increment or a decision not to award tenure, the written statement of grievance shall be filed with the chair of the Faculty Grievance Committee within thirty (30) days of the date that the faculty member is provided notice of action taken after administrative and academic review procedures have been exhausted as required by paragraphs I(D)(2) and I(E)(3) herein.
7. If the period described in paragraph 5 or paragraph 6 above would expire ordinarily between the university's regular semesters, the period shall be extended and shall expire fifteen (15) days after the beginning of the next regular semester.

B. Review by the Faculty Grievance Committee

Upon a faculty member's filing of a written statement of grievance with the chair of the Faculty Grievance Committee, the Grievance Committee shall review the statement, and, if appropriate, proceed with a review of the grievance in accordance with its applicable procedures, as described in sections II and III of Faculty Grievance Committee and Hearing Panels: Composition and Procedures.

C. Withdrawal and Settlement of Matters Before the Committee

The faculty member in any matter before the Grievance Committee may withdraw the matter at any time during the committee's proceedings without the need of the committee's or a Hearing Panel's approval. Such a settlement removes the matter from the jurisdiction of the committee and closes the case. The committee or a Hearing Panel may take whatever steps it deems necessary and appropriate to encourage settlement.

IV. Decision by the President

- A. Upon the conclusion of the applicable procedures of the Grievance Committee and upon the president's receipt of the committee's report and recommendation issued as described therein, the president may decide to accept, alter, or reject the recommendation of the committee as the president sees fit.
- B. Before deciding whether to accept, alter, or reject the recommendations of the committee, the president may request and consider written or oral statements from the parties to the grievance or their designated representatives. Each party must be provided a copy of the written statement filed by the other party and each party must be provided the opportunity to be present when an oral statement is made by the other party. The president shall not discuss the matter with either party prior to making a decision except as provided herein.

- C. If the president decides to alter or reject the recommendations of the committee, the president must state in writing the reasons for that decision.
- D. The president must provide notice to the grievant and to the Grievance Committee of the president's decision, and, if required, the reasons therefore, within thirty (30) days of the president's receipt of the committee's recommendation and report. If the president fails to forward notice to the grievant and to the committee within thirty (30) days, the president shall be deemed to have accepted the committee's recommendation.
- E. The president shall cause the implementation of any remedy provided to the grievant as a result of the president's decision.

V. Review and Evaluation of the Policy and Procedures

The president or his/her designated representative(s) and the Faculty Senate or its designated representative(s) shall jointly review and evaluate this policy every five years. At a Board of Visitors' meeting near the end of an academic year after the review, the president shall present to the Board of Visitors a report describing the results of the review and evaluation and recommending necessary changes, if any. The Faculty Senate, through the designated faculty representative, may present a separate report containing other recommended changes if it should choose to do so.

Faculty Grievance Committee and Hearing Panels: Composition and Procedures

I. Composition and Term of Services

A. Composition and Selection of the Committee

1. The Faculty Grievance Committee shall consist of seven (7) full-time faculty members and administrative faculty according to the following guidelines.
 - a. Five full-time teaching and research faculty members appointed by the Faculty Senate, at least three of whom shall be faculty senators.
 - b. Two administrative faculty members appointed by the president as described in paragraph I(A)(2) below.
 - c. The chair shall be a tenured faculty member elected by the Faculty Grievance Committee.
2. Presidential appointments to the Grievance Committee shall be made as follows. After consultation with the president, the Executive Committee of the Faculty Senate shall recommend to the president five administrative faculty members for service on the Grievance Committee. From the recommendations of the Executive Committee, the president shall choose two appointees to the committee.

B. Term of Service

1. Except as otherwise provided herein, a Faculty Grievance Committee member shall serve a term of two calendar years, commencing August 1 in a year and ending July 31 of the second year thereafter.
2. All members of the committee, including those initially appointed to one-year terms, may be reappointed to consecutive terms.
3. The chair shall serve a two-year term and may be appointed to serve consecutive terms.
4. If a position is vacated during mid-term, it shall be filled as the position was filled according to the rules in I(A), and the individual designated to fill the position shall serve until the expiration of the original term unless reappointed.
5. Members of the committee shall make diligent efforts to attend all meetings of the committee. The committee may declare vacant the position of a member who is absent from three committee meetings during the course of a year.

II. Faculty Grievance Committee Procedures

A. General

1. All questions to be decided by the committee shall be decided by a majority of the committee members present and voting. A quorum of the committee shall be four members. Unless otherwise provided herein, all questions to be decided by the chair and all actions to be taken by the chair may be decided or taken by the chair's designated representative on the committee if the chair is unavailable to make such decisions or to take such actions.
2. It shall be the responsibility of the chair of the Grievance Committee to initiate the proper procedures for the review of a matter that is referred to the committee. A matter arising under the Faculty Grievance Policy shall be reviewed in accordance with the procedures described in section II(B). A matter arising under section III of the Faculty Sanctions Policy shall be reviewed in accordance with the procedures described in section II(C). A matter arising under the policy on Dismissal of Faculty from Employment Due to Financial Exigency or Discontinuance of a Program of Study or Department of Instruction shall be reviewed in accordance with the procedures described in section II(D).
3. All notices required by these procedures to be given shall be in writing and shall be considered given as required when delivered electronically or hand delivered to the grievant and respondent. Notice to the chair of the Grievance Committee, to the chair of the Hearing Panel, or to an administrative officer in a matter before the committee shall be considered given as required when hand or electronically delivered to the office where the chair or such administrative officer receives mail.
4. Except as provided in paragraphs II(A)(5-6), designated University vacation days and days between the end of one academic year and the beginning of the next academic year shall not be included in calculations of the time periods specified in these procedures. This provision is applicable only to the Faculty Grievance Policy, the Faculty Sanctions Policy, or any other University policies or procedures unless otherwise provided in that policy or procedure.
5. Generally, the committee will not be active during the months between the end of one academic year and the beginning of the next academic year. However, the committee may continue its activity after the end of an academic year when necessary to complete a review of a matter pending before the committee, particularly if, in the committee's judgment, a delay until the beginning of the next academic year would have a substantial adverse effect upon a party's interests. Under such circumstances, the time periods described in these paragraphs shall be calculated by excluding only designated University vacation days.
6. The president may request that the chair of the committee initiate the applicable procedures of the committee during the months between the end of one academic year and the beginning of the next academic year when necessary for review of a matter arising during those months under the Faculty Sanctions Policy. Upon receiving such a request, the chair shall initiate the applicable procedures of the committee and may call meetings of the committee as necessary. During those months, a quorum of the committee shall be three members, so long as one Faculty Senate appointee and one presidential appointee are present, and the time periods

described in these procedures shall be calculated by excluding only designated University vacation days.

B. Procedures for Review of a Faculty Grievance

1. Within 30 days of the chair's receipt of a written statement of faculty grievance, the committee shall determine whether the written statement was filed in a timely manner, is adequate in that it meets the requirements of section III(A)(2) of the Faculty Grievance Policy, and describes a matter that the committee has the authority to review under the Faculty Grievance Policy.
 - a. If the Faculty Grievance Committee determines that the written statement of grievance does not meet the requirements of section III(A)(2) of the Faculty Grievance Policy, the grievant shall be advised of the deficiencies in the statement and shall be provided a reasonable time, as determined by the committee, within which to forward an adequate statement to the chair. If the faculty member does not file a statement that the committee determines to be adequate within such reasonable time, the committee may decide not to review the grievance. If the committee so decides, it shall notify the faculty member accordingly. If the faculty member does file a statement that the committee determines to be adequate within such reasonable time, the committee shall have 14 days from the chair's receipt of the adequate statement within which to determine whether the grievance was filed in a timely manner and whether the committee has authority to review the matter described in the statement. The timeliness of the filing of the grievance shall be determined by the date the initial statement was filed, although the committee may have determined it to be inadequate, so long as the committee has not closed the matter by deciding not to review the grievance.
 - b. If the committee determines that the written grievance was not filed in a timely manner or that the matter described in the grievance is not within the authority of the committee to review, the committee shall not review the grievance. The faculty member shall be notified of the committee's decision and the reasons therefore.
 - c. If the committee should decide that the written statement was filed in a timely manner, is adequate, and describes a matter over which the committee has authority, the grievant and the administrative officer against whom the grievance was filed shall be notified that the committee will review the grievance and the administrative officer shall be provided a copy of the written statement filed by the grievant.
2. Within 14 days of receipt of the committee's decision that it will review a grievance, the administrative officer against whom the grievance was filed shall provide to the chair and to the grievant a written response to the written statement of the grievance. The response should be filed electronically, be no more than 1,000 words in length, and should include, as attachments, copies of relevant documentation.

3. Within 14 days of the chair's receipt of the administrator's response, the chair shall impanel a Hearing Panel as described in section III(A). The Faculty Grievance Committee chair shall provide the written statement of grievance, the administrator's response, and attached documentation to the chair of the Hearing Panel.
4. The proceedings on the grievance before the Hearing Panel shall be in accordance with the procedures of the Hearing Panel as described in section IV.
5. Upon concluding its hearing procedures and upon making its findings on the merits of the grievance, as described in section IV, the panel shall determine its recommendation for dismissal or remedy of the grievance and shall report to the chair of the Grievance Committee as described in section IV.

C. Review by Hearing of Matters Arising Under Section III of the Faculty Sanctions Policy

1. Prior to the president's request that the chair of the Grievance Committee initiate the applicable procedures to dismiss or to sanction severely a faculty member, the administrative official designated by the president shall notify the faculty member of the president's intent to make such a request. This notice to the faculty member shall include a statement of charges.
2. The president's request to the chair of the Grievance Committee shall include a copy of the statement of charges provided to the faculty member.
3. The statement of charges shall include a specific description of the charges, a summary of the evidence upon which the charges are based, a list of witnesses whose identities are known, a summary of the expected testimony of those witnesses, and a recommendation of sanctions.
4. The Grievance Committee shall determine whether the statement of charges is procedurally adequate in that it meets the requirements of paragraph 3 above. If the committee should decide that the statement of charges is procedurally inadequate in that it does not meet the requirements of paragraph 3 above, the administrative official shall be advised of the deficiencies in the statement and within a reasonable time, as determined by the committee, shall forward an adequate statement to the faculty member and to the chair. The chair shall not initiate the following procedures until the administrative official has presented an adequate statement of charges.
5. Within 14 days of the chair's receipt of an adequate statement of charges, the chair of the Grievance Committee will impanel a Hearing Panel as described in section III(A). The chair shall provide the written statement of the charges and the responses of the faculty member, if any, to the chair of the Hearing Panel.
6. The faculty member may respond in writing to the statement of charges at any time prior to the hearing. The faculty member's failure to respond to the charges shall not constitute an admission of the charges. The faculty member's response, if any, shall be made to the chair of the Grievance Committee. Upon receipt of a faculty member's response, the chair of the Grievance Committee shall forward a copy to

the administrative official who presented the charges and a copy to the chair of the Hearing Panel if the panel has been constituted.

7. During each and every stage of the proceedings on the statement of charges, the faculty member may choose to appear, to be heard, or not.
8. Each party may be represented by legal counsel or an adviser, or both during each and every stage of the proceedings.
9. The burden of proving the charges shall be on the administrative official.
10. The proceedings before the Hearing Panel on the statement of charges shall be in accordance with the procedures of the Hearing Panel as described in sections IV(A) and IV(B).
11. If the panel should conclude that none of the charges against the faculty member were proven, the proceedings before the panel will terminate, and the panel will report to the chair of the Grievance Committee as described in section IV(C) with a recommendation that the charges be dismissed.
12. If the panel should find the charges proven in whole or in part, it shall convene a hearing on the sanction.
13. At the sanction hearing:
 - a. The administrative official and the faculty member shall have the right to present evidence, including witnesses and documentary evidence, and to present arguments on the question of the appropriate sanction, including evidence in mitigation or aggravation of the seriousness of the charges and evidence as to the implications of the charges for the welfare of the University.
 - b. The previous disciplinary record of the faculty member may be considered by the panel but becomes relevant only at this stage of the proceedings.
 - c. Except as otherwise provided in this paragraph, the sanction hearing shall be conducted in accordance with the procedures described in sections IV(A) and IV(B).
14. At the close of the presentation of evidence on the sanction, the Hearing Panel shall adjourn the hearing and shall reconvene with only members of the panel present and shall determine its recommendations as to the sanction(s) to be imposed upon the faculty member. Panel members who disagree with the Hearing Panel's recommendations may provide an explanation and rationale for the disagreement.
15. The panel may recommend the dismissal of the faculty member or the imposition of another severe sanction, or if it finds that the proven charge does not warrant

imposition of a severe sanction, it may recommend that a minor sanction be imposed.

16. Upon determining its recommendation, the chair of the Hearing Panel shall report to the chair of the Grievance Committee as described in section IV(C).

D. Procedures Governing Review of a Matter Involving the Dismissal of Faculty From Employment Due to Financial Exigency, Etc.

1. Within 14 days of the chair's receipt of a request from the president that the Grievance Committee review a faculty member's appeal of a notice of termination issued to that faculty member under the policy for Dismissal of Faculty From Employment Due to Financial Exigency, etc., the chair of the committee shall impanel a Hearing Panel.
2. The chair of the Grievance Committee shall provide a copy of the faculty member's appeal and notice of termination to the chair of the Hearing Panel.
3. The Hearing Panel shall review the notice of termination in accordance with the procedures described in section IV.
4. The president or an administrative official designated by the president shall appear in proceedings before the Hearing Panel in support of the notice of termination issued to the faculty member.
5. The faculty member shall bear the burden of proving that the president's decision to issue the notice was arbitrary, capricious, unreasonable, or contrary to the facts or that there was a material deviation from the University's policies or procedures in the issuance of the notice.
6. Each party may be represented by an adviser who may be legal counsel.
7. Faculty members from the same department of instruction or program of study may appear before the Hearing Panel collectively if they should so choose.

III. Hearing Panels

A. Composition of the Panels

1. The committee shall not hear matters brought before it but shall designate Hearing Panels for that purpose. A Hearing Panel shall consist of five full-time faculty members and shall be selected on a case-by-case basis. The Hearing Panel shall be appointed by the chair of the Grievance Committee upon the recommendation of the other members of the committee.
2. The chair of the Grievance Committee shall appoint one of the Hearing Panel members as chair.

3. A Grievance Committee member who has taken a prejudicial public position on a matter before the committee, who has a personal interest in a matter before the committee, or who has a close personal or direct professional relationship with either of the parties in a matter before the committee shall not designate a member of the Hearing Panel for that matter. Such Grievance Committee member shall disclose the relevant conflict of interest and recuse himself/herself. No person may serve on the Grievance Committee or a Hearing Panel if he/she is the person against whom the grievance is brought.
4. Only full-time faculty members whose duties are primarily non-administrative in nature are eligible to serve on Hearing Panels. A Hearing Panel constituted to hear the case of a tenured faculty member shall consist of tenured faculty members. A Hearing Panel constituted to hear the case of a nontenured faculty member shall consist of at least one, but not more than two, nontenured faculty members. No members of the panel may be from the college of the faculty member whose case will be heard by the panel. No member of the panel may be from the library if the faculty member whose case will be heard is from the library. There shall be no restriction as to the colleges of panel members selected to hear the case of an administrative faculty member who has no departmental designation.
5. Department chairs are ineligible to serve on a Hearing Panel constituted to hear a grievance in which the action of a department chair is the action being grieved.
6. It shall be the responsibility of the chair of the Faculty Grievance Committee to assure that members of the Hearing Panel meet the requirements described herein. In order to assure that such requirements are met, the chair may limit, as to college and as to tenure status, the designations made by Grievance Committee members. Limitations upon such designations should be evenly applied to designations made by Faculty Senate appointees on the committee and to designations made by presidential appointments on the committee.
7. Either party in a case may challenge individual members of the Hearing Panel for cause. "Cause" may include the taking of a prejudicial public position on the matter to be heard, a personal interest in the matter to be heard, or a close, personal, or direct professional relationship with either of the parties. The Grievance Committee shall determine the legitimacy of a challenge.

8. Members of a Hearing Panel should voluntarily recuse themselves from hearing matters if their participation on the Hearing Panel could result in legitimate challenges for cause, whether or not such challenges have been made.
9. Any Hearing Panel member who has a close personal or direct professional relationship with the person filing a grievance or the administrator against whom the grievance is filed must disqualify himself/herself from serving on that case.

IV. Hearing Panel Procedures

A. Prior to the Hearing

1. The Faculty Grievance Committee chair will provide contact information for the Hearing Panel chair to the grievant and respondent.
2. At least five working days prior to a hearing, all parties must submit all written documents and exhibits to be considered at the hearing to the chair of the Hearing Panel, who will distribute or otherwise make available all materials to both parties at least two working days before the hearing. **These materials shall be held privately among Faculty Grievance Committee, the Hearing Panel, and both parties to the complaint.**
3. The Hearing Panel shall be provided and shall review all statements and attached documentation filed by the parties in the cases before the panel.
4. The Hearing Panel may hold a pre-hearing conference with or without the parties prior to the hearing to discuss procedures, to clarify the issues, to exchange documentary evidence, to make stipulations of fact, and to take any other actions necessary to expedite the proceedings.
5. At any stage of the proceedings, the Hearing Panel may call upon the University Counsel, the chair of the Grievance Committee, or the Grievance Committee as a whole for procedural advice concerning the matter before the panel.
6. The Hearing Panel chair shall set the date, time, and place of the hearing. Insofar as is possible within the guidelines described in paragraphs 5 and 6, the hearing shall be set at a date and time which is convenient to all parties, and continuance of the hearing date may be granted by the chair of the Hearing Panel upon the request of either party or upon the panel's own motion.
7. A hearing on a matter arising under the Faculty Grievance Policy and under the policy on Dismissal of Faculty From Employment Due to Financial Exigency, etc., should be held no less than 14 days and no more than 45 days after impaneling of the Hearing Panel. Upon agreement of all parties, a hearing may be held earlier than 14 days, and in extraordinary cases, as determined by the chair of the Grievance Committee in consultation with the University Counsel, a hearing may be held later than 45 days.
8. A hearing on a matter arising under the Faculty Sanctions Policy shall be held no less than 30 days and no more than 60 days after notice of the statement of charges is given to the faculty member. Upon agreement of all parties, a hearing may be held

earlier than 30 days, and in extraordinary cases, as determined by the chair of the Grievance Committee, a hearing may be held later than 60 days.

9. Fourteen days prior to the hearing, the chair of the Hearing Panel shall notify each party of the date, time, and place of the hearing. A party may agree to waive this notice. All parties not given timely notice must agree to waive notice before the hearing may be held as scheduled.
10. Except as provided in paragraph II(C)(7), each party who has been given timely notice or who has waived timely notice is expected to appear in person at the hearing. If any such party should fail to appear, the chair of the Hearing Panel may decide, in the chair's sole discretion, to proceed with the hearing in the party's absence. If the chair of the Hearing Panel should decide to proceed, the party's absence shall not invalidate the hearing.

B. At the Hearing

1. The administrative official and the faculty member in the case before the panel shall present evidence by calling and questioning witnesses, by introducing the documentary evidence, or otherwise. Each party shall have the right to ask questions of witnesses called by the other party or by the Hearing Panel.
2. During the hearing, each party to the grievance and the Hearing Panel may have one advisor. The advisor may serve as a consultant to the party/panel during the presentation of the matter before the Hearing Panel. The advisor is not permitted to address the Hearing Panel, the other party, witnesses, or other individuals present at the hearing. The advisor may confer only with the individual or the panel for whom he/she is the designated advisor. Failure to comply with this rule will result in the removal of the advisor for the duration of the hearing.
3. The burden of proving the allegations of the grievance shall be upon the faculty member.
4. Access to the hearing shall be limited to the panel, parties, advisors, and witnesses.
5. In conducting the hearing, the Hearing Panel shall admit all evidence determined by it to be relevant and not cumulative and shall accord such evidence the merit it deserves. The panel may limit the number of witnesses to prevent repetitive or cumulative testimony and may grant adjournments as it deems necessary.
6. The Hearing Panel may determine, on its own motion, the necessity of calling witnesses additional to those called by the parties and of examining documentary evidence additional to that presented by the parties.
7. The University will make its best efforts to assist the parties and the Hearing Panel in obtaining witnesses and documentary evidence. Each party in a case before the panel shall have access to all records needed to present that party's case except as follows:

- a. Access to records covered by the [Family Educational Rights and Privacy Act of 1974](#), as amended (Section 438 of the General Education Provisions Act, Title IV of Public law 90-247, as amended) shall be in accordance with the provisions of that act.
 - b. Access to records covered by the Virginia Privacy Protection Act of 1976 (2.1-377 et seq. of the 1950 Code of Virginia, as amended) shall be in accordance with the provisions of that act; and
 - c. There shall be no right of access to records excluded absolutely by the provisions of the [Virginia Freedom of Information Act](#) (2.1-340 et seq. of the 1950 Code of Virginia, as amended).
8. The Hearing Panel chair will preside at the hearing and will rule, on the panel's behalf, on all procedural questions which arise during the hearing. A panel member who disagrees with the chair's ruling on a procedural question may ask that the question be decided by the panel, and the question shall be so decided. All questions on the merits will be decided by the panel.
9. A digital audio recording shall be made of the hearing and shall be kept securely in the University Counsel's office.

C. After the Hearing

1. At the close of the presentation of evidence, the Hearing Panel shall adjourn the hearing and shall reconvene with only members of the panel present to make its findings and to arrive at its conclusions and recommendations for dismissal or remedy of the grievance.
2. The Hearing Panel shall create a report which shall include the following:
 - a. Copies of statements and attached documentation filed by the parties in the matter before the panel;
 - b. The names of the parties and their advisers;
 - c. The names of witnesses appearing before the panel;
 - d. The findings and recommendations of the panel which must include addressing the charges brought by the faculty member; and
 - e. The recommendations and rationale of the panel. Panel members who disagree with the Hearing Panel's recommendations may provide an explanation and rationale for the disagreement.
3. The report shall be certified as correct by each Hearing Panel member who participated in the decision.

4. The Hearing Panel chair shall provide copies of the report to the chair of the Grievance Committee and to each party.
5. A digital audio recording of the hearing shall accompany the report provided to the chair of the Grievance Committee and shall be made available to the parties.

D. Decisions by a Hearing Panel and Its Chair

1. All questions to be decided by a Hearing Panel shall be decided by a vote of panel members present and voting.
2. A quorum of the panel shall be three members.
3. Generally, a panel member who has not attended a substantial portion of each hearing session held in a case should not vote in the panel's decision on the merits of the case or on the panel's recommendation in the case. In the event that a question is raised by either party or by other panel members as to the propriety of a panel member's vote because of that panel member's absences, the question shall be referred to the Grievance Committee for determination.
4. All questions to be decided by the Hearing Panel chair and all actions to be taken by the chair may be decided or taken by the chair's designated representative on the panel if the chair is unavailable to make such decisions or take such actions.

V. Faculty Grievance Committee's Review and Report

A. Review and Report of the Hearing Panel

1. Within 30 days of the chair's receipt of the Hearing Panel report, the Grievance Committee shall review the report and shall determine whether the procedural requirements of the committee and of the Hearing Panel were met and whether the recommendations made by the panel were within the authority of the Grievance Committee and the panel to make.
2. Before making such a determination, the committee may request and consider written or oral statements from the parties or their designated representatives on questions of procedure or on questions regarding the committee's authority to make the recommendations proposed by the panel. Each party must be provided a copy of any written statement filed by the other party, and each party must be provided the opportunity to be present when an oral statement is made by the other party.

B. Action and Report of the Grievance Committee

1. If the Grievance Committee should decide that procedural errors were committed which were substantially prejudicial to either party, the committee may refer the matter to the original Hearing Panel for a rehearing of the matter or may impanel another Hearing Panel for a rehearing of the matter. The committee shall provide a reasonable time within which the rehearing must be completed and a report provided to the chair of the committee.

2. If the Grievance Committee should decide that the recommendations made by the panel are not within the authority of the committee or of the panel to recommend, the committee shall refer the matter to the Hearing Panel for a redetermination of its recommendations. The Hearing Panel shall report its revised recommendations to the committee within a reasonable time, as determined by the committee.
3. Upon the Grievance Committee's determination that procedural requirements were met and that the recommendations of the Hearing Panel were within the authority of the committee or the panel to make, the Grievance Committee shall so certify and shall adopt the report and recommendations of the Hearing Panel as the report and recommendations of the Grievance Committee.
4. The chair of the Grievance Committee shall advise the chair of the Hearing Panel and both parties of any action taken by the Grievance Committee upon its review of the report of the Hearing Panel. Both parties shall be provided copies of any new or revised reports issued by the Hearing Panel.
5. The chair of the Grievance Committee shall transmit the report and recommendations of the Grievance Committee to the president (see section IV of the Faculty Grievance Policy).

VI. Retaliation Prohibited

Retaliation against witnesses for any party is prohibited, and [University Policy 3020](#) applies to all alleged retaliation that arises from or as a result of a grievance matter. Witnesses are defined as persons that provide actual testimony or provide documentary evidence.

- Approved by the Board of Visitors
May 15, 1982; Revised June 15, 1989; Revised December 3, 1992; Revised June 22, 1995; Revised April 23, 2015 (eff. 6/1/15)
- Transitioned to University-Level Policy
December 10, 2021;
Reviewed; No Changes Proposed April 20, 2022