

AY21-39-G

NUMBER: 1470

TITLE: Faculty Grievance Policy

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)

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 ensure 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 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 administrative officer has the authority to provide.
2. The remedy available to a faculty member who chooses to grieve a personnel action (i.e., non-reappointment, promotion, evaluation, salary increment, tenure denial, or appointment to emeritus/emerita status) may initiate the grievance process through the applicable procedures of the university.

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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 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 deferment of promotion or denial of tenure 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.

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4. Personnel actions (I.e., deferment of promotion, denial of tenure, or non-reappointment) may be grieved only on the grounds of evidence of an action that is arbitrary, capricious, unreasonable or contrary to the facts.

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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 five 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.

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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 Senate 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. a description of the events leading to the action, refusal or failure to act the faculty member is grieving;
 - d. a statement of the injury suffered by the faculty member and the date thereof; and
 - e. 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.