

UNIVERSITY OF
NORTHERN COLORADO

BOARD OF TRUSTEES AGENDA ACTION ITEM

Meeting Date: June 11, 2021

**Name of
Item:**

Board Policy Manual Amendment – Section 2-3-1201 (Faculty Grievance)

Responsible Staff Member: Satriana

Summary of Agenda Item: This item addresses amendments to Section 2-3-1201 of the Board Policy Manual regarding the Faculty Grievance process. The amendments clarify the description of the grievance process and record retention.

Recommended Action by BOT:

Approval No Action Needed

Change to Board Policy Manual:

Approval No Action Needed

If yes, Section: 2-3-1201

Administrative Recommendation (Motion): Approve



Signature of Vice President

6/3/2021

Date

Signature of President

Date

Attachment to Senate Action #1205

Approved by the Faculty Senate

February 1, 2021

Revisions to 2-3-1201

See highlights and strikethroughs for additions and deletions.

Part 12 Faculty Grievance.

2-3-1201 Faculty Grievance.

This policy sets forth definitions and procedures concerning faculty grievances. All discussions, deliberations, and documents under this policy shall be held in ~~the utmost~~ confidence unless they are required to be disclosed by application of law, or that either the Grievant or Respondent makes a claim that requires the university to defend the claim. Disputes that involve allegations of discrimination, harassment, or retaliation as defined in the Discrimination Complaint Procedures 3-6-125 (DCP) ~~for alleging discrimination or harassment~~ must first use follow the DCP ~~the Discrimination Complaint Procedures 3-6-125~~; tenure appeal cases must first follow the procedures for Comprehensive Review 2-3-801(3). ~~[See also the Tenure Appeals Committee {2-3-902(7).}]~~

2-3-1201(1) Definitions.

2-3-1201(1)(a) Eligibility.

All faculty members shall have the right to seek redress of grievances within the University community. Any grievant has the right to withdraw their formal grievance at any time.

2-3-1201(1)(b) Grievable Matters.

Grievable matters are those in which one or more faculty members in a specific instance allege(s) that a misapplication, misinterpretation, or other violation of a university policy or procedure adversely affected ~~his or her/~~ their academic freedom, professional reputation, compensation, and/or the advancement in the profession ~~s/he/they~~ represent or in other ways. In cases of dismissal of tenured faculty, ~~the applicable procedures are those at see~~ 1-1-310 and 2-3-1101 for the applicable procedures. In cases of ~~non-renewal of tenure-track contract non-renewal of all other~~ faculty, ~~see 1-1-301(3) and 2-3-202(3)~~ the applicable procedures are those outlined in this policy.

2-3-1201(1)(c) Faculty Grievance Committee.

The Faculty Grievance Committee (~~Grievance~~ Committee) is designated as the hearing authority for all grievances ~~except for those which have their own procedures stated in this policy~~. A ~~Grievance~~ Committee of twelve (12) full-time faculty members shall be appointed by the Chair of the Faculty Senate and confirmed by the Senate to three-year, staggered terms. The ~~Grievance~~ Committee shall select its own chair and two (2) other committee members who, in addition to the chair, may be asked to chair hearing panels. In the instance of especially heavy caseloads, the Chair of the ~~Faculty~~ Senate may appoint with Senate confirmation additional members to the ~~Grievance~~ Committee.

2-3-1201(1)(d) Working Days. [See 1-2-101 General Provisions]

~~“Working Days,” as used in this Board Policy Manual, means all days other than (a) those designated as “university holiday,” “university closed” or “spring break” on the UNC Calendar maintained on the University website, (b) the days following the last day of classes of the fall semester and prior to the first day of classes of the spring semester, (c) the days following the last of classes of the spring semester and prior to the first day of classes of the fall semester of the following academic year, and (d) Saturdays and Sundays.~~

2-3-1201(2) Preliminary Procedures.

2-3-1201(2)(a) The aggrieved person(s) (~~herein after called the g~~Grievant(s)) shall discuss the alleged violation with the appropriate department chair/school director/program area coordinator, academic dean, and the Chief Academic Officer (CAO) in that order if necessary to resolve the issue. Each of these individuals, when meeting with the ~~aggrieved person~~ Grievant(s), should make the ~~aggrieved person~~ Grievant(s) aware of the grievance policy. These discussions must take place within thirty (30) working days of the date that the ~~g~~Grievant(s) knew or, should have known, ~~or became aware~~ of the alleged violation, or of the harm that results, whichever is later. ~~Should these discussions fail to resolve the issue, the grievant(s) has/have five (5) working days to notify the CAO in writing of the intention to file a formal grievance. Thereafter, if the issue has not been resolved after ten (10) working days, a formal grievance can be filed following the procedure below. If these discussions fail to resolve the issue within such thirty (30) day period, the Grievant has twenty (20) working days thereafter to file a formal written grievance as described in 2-3-1201(2)(b).~~

2-3-1201(2)(b) ~~If the grievant(s) miss(es) any of these deadlines due to reasonable circumstances, the grievant(s) may request in writing an extension to the chair of the Grievance Committee, who shall initiate a vote of the entire committee whether to grant the extension. An extension shall be granted if a least half the committee members voting approve the extension.~~

2-3-1201(2)(be) The formal grievance shall be in writing to the chair of the Committee and shall contain the following: ~~If the grievant(s) then wish(es) to file a grievance, s/he/they have twenty (2) working days after notice of intent to file a grievance has been sent to the CAO, to submit in writing to the chair of the Grievance Committee, the following:~~

- (I) ~~the exact nature~~ a concise description of the grievance; ~~including a list of witnesses; all exhibits; and other evidence to be presented at the hearing; together with~~ and the name of ~~his or her/~~their counsel, if any.
- (II) name(s) of the ~~party/parties~~ person(s) (~~herein after called the r~~Respondent(s)) alleged to have committed the ~~violation~~ grievable action, and
- (III) the ~~relief requested~~ resolution sought by the Grievant(s).

2-3-1201(2)(cd) Within five (5) working days of receipt of the written ~~notification~~ formal grievance, the chair of the ~~Grievance~~ Committee shall do the following:

- (I) select five (5) members of the ~~Grievance~~ Committee, including a chair, to form the Hearing Panel (Panel) to hear the grievance.
- (II) ~~convey~~ provide the formal written grievance to the ~~p~~Panel members and the ~~r~~Respondent(s) ~~copies of the grievance, including a list of witnesses, all exhibits, and other evidence to be presented at the hearing, together with the name of the~~ grievant's(s') counsel.
- (III) ~~notify~~ provide written notification to the President and the chair of the ~~Faculty~~ Senate that a ~~written~~ formal grievance has been filed, ~~including and include~~ the names of the ~~g~~Grievant(s) and ~~r~~Respondent(s).

~~From this point, the Panel assumes responsibility for conducting the grievance proceedings.~~

2-3-1201(2)(d-e) Upon receipt of the written notification from the chair of the ~~Grievance~~ Committee, the ~~r~~Respondent(s) shall have fifteen (15) working days to submit a response to the ~~grievance~~ grievant's(s') arguments, together with all exhibits, evidence, and list of witnesses to the chair of the Panel, who shall promptly ~~make it available~~ provide it to ~~g~~Grievant(s) and the Panel.

2-3-1201(2)(ef) Once the exchange of evidence is complete, grievance and the response described above have been exchanged, the Panel shall hold a formal hearing within twenty (20) working days hold a hearing on the case. A full audio recording of the hearing shall be made taken.

2-3-1201(2)(fg) After consultation with each party, the Chair of the hearing panel shall provide the Grievant(s) and Respondent(s) with the proposed timetable and procedure for the hearing after consultation with each party.

2-3-1201(2)(g) If the Grievant(s) miss(es) any of these deadlines due to reasonable circumstances, the Grievant(s) may request in writing an extension to the chair of the Committee, who shall initiate a vote of the entire Committee whether to grant the extension. An extension shall be granted if at least half the Committee members vote to approve the request.

2-3-1201(3) The Hearing - General.

The expectation is that the hearing shall be reasonable and fair. The participants in the hearing shall be the Panel, the Grievant(s) and his or her/their counsel and witnesses, and the Respondent(s) and his or her/their counsel and witnesses. Both the Grievant(s) and the Respondent(s) can bring legal or other counsel to the hearing, but these counsels may not act or speak on behalf of either party. The hearing shall be closed to all other parties. Witnesses will be present only during their own testimony unless all parties agree otherwise. The goal of the proceedings shall be to insure that the Panel shall be able to hear give due consideration to all relevant positions, examine and all materials submitted during the hearing in the exchange of evidence, and analyze all dimensions of the case.

2-3-1201(4) Hearing Procedures.

Members of the Panel may ask questions of either party in the case or any witness called. All parties in the case shall be given the opportunity to ask questions of all witnesses called by either side. The hearing will proceed as follows:

2-3-1201(4)(a) The chair of the Panel shall introduce the case by reviewing the steps below for the hearing, clarifying any procedural points regarding evidence to be introduced, stating that the burden of proof lies with the Grievant(s), and any matter which should appropriately be resolved before hearing the case. Matters of concern should be raised at this point if any party to the case has a question or complaint. Questions regarding procedure shall be decided by the Panel prior to the beginning of the hearing.

2-3-1201(4)(b)(a) The Grievant(s) shall be given the opportunity to make an opening statement outlining his or her/their case.

2-3-1201(4)(c)(b) The Respondent(s) shall then be given the opportunity to make an opening statement outlining his or her/their case.

2-3-1201(4)(d)(c) The Grievant(s) shall present his or her/their case.

2-3-1201(4)(e)(d) The Respondent(s) shall present his or her/their case.

(e) Members of the Panel and all parties in the case may ask questions of either party in the case or any witness called.

2-3-1201(4)(f) The Grievant(s) shall be given the opportunity to make closing arguments.

2-3-1201(4)(g) The Respondent(s) shall be given the opportunity to make closing arguments.

2-3-1201(5) Hearing Panel Report.

Within ten (10) working days of completion of the hearing, the chair of the Panel shall file a copy of the Panel's report with the President, Grievant(s), and Respondent(s).

The Panel's report shall consist of the following parts: findings of fact, recommended course of action, rationale, and all materials submitted by Grievant(s) and Respondent(s).

The chair of the Panel shall file a copy of the report and the audio recording of the hearing with the Faculty Senate Office, which shall be retained for seven (7) years. Upon request, all parties to a grievance, including the President of the University, as well their counsel, can listen to the audio recording of the hearing.

Within ten (10) working days after receiving this the Panel's report, the affected persons Grievant(s) and/or Respondent(s) may submit an appeal in writing to the President.

The President shall consider any such appeal(s) before taking final action on the grievance and may, in their discretion, or making make a recommendation for action to the Board of Trustees. The President will shall render a written decision within forty-five (45) calendar days after receiving the Hearing Panel's report. The President's written decision is final.

The President shall report the final action in disposition of the case by the President shall be reported to the Faculty Senate in executive session. S/he The President shall provide a copy of the written decision to notify the Grievant(s) and Respondent(s) of the decision prior to reporting to the Faculty Senate. A copy of the President's final report shall be filed in with the Faculty Senate Office.

Clean copy version below.

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2-3-1201(2)(b) The formal grievance shall be in writing to the chair of the Committee and shall contain the following:

- (I) a concise description of the grievance; a list of witnesses; exhibits; and other evidence to be presented at the hearing; and the name of their counsel, if any.
- (II) name(s) of the person(s) (Respondent(s)) alleged to have committed the grievable action, and
- (III) the resolution sought by the Grievant(s).

2-3-1201(2)(c) Within five (5) working days of receipt of the written formal grievance, the chair of the Committee shall do the following:

- (I) select five (5) members of the Committee, including a chair, to form the Hearing Panel (Panel) to hear the grievance.
- (II) provide the formal written grievance to the Panel members and the Respondent(s).
- (III) provide written notification to the President and the chair of the Faculty Senate that a written formal grievance has been filed, including the names of the Grievant(s) and Respondent(s).

2-3-1201(2)(d) Upon receipt of the written notification from the chair of the Committee, the Respondent(s) shall have fifteen (15) working days to submit a response to the grievance, together with all exhibits, evidence, and list of witnesses to the chair of the Panel, who shall promptly provide it to the Grievant(s) and the Panel.

2-3-1201(2)(e) Once the grievance and the response described above have been exchanged, the Panel shall hold a formal hearing within twenty (20) working days. A full audio recording of the hearing shall be made.

2-3-1201(2)(f) After consultation with each party, the Chair of the Panel shall provide the Grievant(s) and Respondents(s) with the proposed timetable and procedure for the hearing.

2-3-1201(2)(g) If the Grievant(s) miss(es) any of these deadlines due to reasonable circumstances, the Grievant(s) may request in writing an extension to the chair of the Committee, who shall initiate a vote of the entire Committee whether to grant the extension. An extension shall be granted if at least half the Committee members vote to approve the request.

2-3-1201(3) The Hearing - General.

The participants in the hearing shall be the Panel, the Grievant(s) and their counsel and witnesses, and the Respondent(s) and their counsel and witnesses. Both the Grievant(s) and the Respondent(s) can bring legal or other counsel to the hearing, but these counsels may not act or speak on behalf of either party. The hearing shall be closed to all other parties. Witnesses will be present only during their own testimony unless all parties agree otherwise. The Panel shall give due consideration to all relevant positions and all materials submitted during the hearing.

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- (a)** The Grievant(s) shall be given the opportunity to make an opening statement outlining their case.
- (b)** The Respondent(s) shall then be given the opportunity to make an opening statement outlining their case.
- (c)** The Grievant(s) shall present their case.
- (d)** The Respondent(s) shall present their case.
- (e)** Members of the Panel and all parties in the case may ask questions of either party in the case or any witness called.
- (f)** The Grievant(s) shall be given the opportunity to make closing arguments.
- (g)** The Respondent(s) shall be given the opportunity to make closing arguments.

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The President shall consider any such appeal(s) before taking final action on the grievance and may, in their discretion, make a recommendation for action to the Board of Trustees. The President shall render a written decision within forty-five (45) calendar days after receiving the Hearing Panel's report. The President's written decision is final.

The President shall report the final action in the case to the Faculty Senate in executive session. The President shall provide a copy of the written decision to the Grievant(s) and Respondent(s) prior to reporting to the Faculty Senate. A copy of the President's final report shall be filed with the Faculty Senate Office.