



Texas Tech University

The Faculty Senate

January 7, 1983

TO: MEMBERS OF THE FACULTY SENATE

FROM: Virginia M. Sowell, President

SUBJECT: Agenda for meeting #47, January 12, 1983

The Faculty Senate will meet on Wednesday, January 12, 1983, at 3:30 p.m. in the Senate Room of the University Center. The agenda is as follows:

- I. Introduction of new parliamentarian, Vernon McGuire, and other guests
- II. Approval of minutes of December 8, 1982 meeting
- III. Discussion of legislative budget matters and summer school financing -
Vice President for Academic Affairs John R. Darling
- IV. Report on faculty parking - Representative from the Office of Finance and
Administration
- V. Report of Faculty Benefits and Retirement Committee on TIAA-CREF Pension
Benefits - Eason Cockings, M.D., Chairman and Wendell Tucker, Director,
Personnel
- VI. Report of Faculty Status and Welfare Committee on proposed grievance
procedures - Charles Bubany
- VII. Report of meeting of various study committee chairmen with President Cavazos
and Vice President Darling on January 12 at 2:00 p.m.
- VIII. Report of the Committee on Committees - Reed Richardson
- IX. New Business
- X. Other Business and Announcements
 1. Wrote letter, as instructed by the Senate, to Vice President for Finance
and Administration, Eugene E. Payne, concerning faculty parking after 5 p.m.
 2. Forwarded information entitled "Competition for TIAA-CREF Pension: Some
Colleges Offering Mutual Funds" to the Benefits and Retirement Committee.
 3. Wrote letters of appreciation concerning his service as Senate Parliamentarian
to Ernest Sullivan and to English Department Chairman Daryl E. Jones

4. Wrote letter inviting Vernon McGuire to serve as Senate Parliamentarian.
5. Agenda Committee sent names of George Tereshkovich and Dan Benson to the Academic Vice President's office as Senate nominees to serve on the Special Hearing Panel.

XI. Summary of Academic Council minutes

1. Announcement was made that the Board of Regents would be asked to approve the purchase of a larger computer to accommodate the new student information system as well as as increased administrative and academic computing. The need for involvement of academic deans in deciding on levels and sources of funds for academic computing was emphasized.
2. Requests were made that dean candidates meet with the Academic Council as a group when possible.
3. Timing of performance reviews for promotion, tenure, and merit raises were discussed and will be further discussed at their February meeting.
4. A summary of external funds being generated within the University was distributed by Dr. J. Knox Jones. Darling indicated that the level of activity in generating external funds would be a factor in salary distribution to colleges. (A copy of this summary is available in the Senate office.).
5. Information on state salary levels received from the Coordinating Board was distributed. (A copy is available in the Senate office.).
6. Mini-computer class enrollments during the intersession were so popular that a third section was offered.



Texas Tech University

School of Law

DATE: December 8, 1982

TO: Faculty Senate

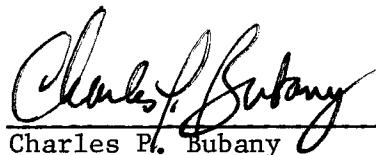
FROM: Professor Charles Bubany, Chairman
Faculty Status and Welfare Committee

SUBJECT: Committee Report (December 8, 1982)

As reported at the November 10, 1982 meeting the committee has been reviewing the proposed Texas Tech University Faculty Grievance Procedures in consultation with Dr. John Darling, Vice President for Academic Affairs. At its November 18 meeting, the committee gave its approval, conditioned on certain modifications being made. Those modifications have been incorporated into a revised draft, a copy of which has been forwarded by Dr. Darling to the President of the Senate with the request that the Senate review and consider the draft in an advisory role to the Office of Academic Affairs. I am advised by the President that the proposed procedure will be placed on the agenda for discussion at the next meeting of the Senate on January 12, 1983. Copies of the proposed procedure will be provided to you before that meeting.

As noted in the November issue of Insight, the proposed procedure provides for a step-by-step grievance procedure, with a specific timetable for each step. In general, there are four basic steps: first, a required attempt to resolve the grievance informally; second, filing of a formal grievance with the administrator, who may use an advisory committee to hear the grievance; third, appeal through regular administrative channels, up to and including the Vice President for Academic Affairs; and finally, appeal to the President in which case the grievance will be heard by a Grievance Committee of five representatives chosen by lot from the Faculty Grievance Panel, which is made up of two representatives from each college and the School of Law.

As for as the hearing before the Grievance Committee is concerned, the procedure attempts to make it non-adversary and investigative in nature. Both parties to the grievance may peremptorily challenge up to three members of the Grievance Committee, who will be replaced by lot. The aggrieved and the administrator whose decision is claimed to have led to the grievance each may present evidence to the committee and may call other witnesses, as may the committee, and also may question all witnesses. Other details of procedure are to be agreed upon by the parties, if possible, but if not are decided by the committee. The final recommendations of the committee are submitted to the President who, if his decision is different from the recommendations, must inform the committee and the grievant of the reason.


Charles P. Bubany

CPB/dw



Texas Tech University

Office of the Vice President for Academic Affairs

December 2, 1982

Dr. Virginia M. Sowell
President, Faculty Senate
Campus

Dear Dr. Sowell:

Enclosed please find a revised draft of the Texas Tech University Faculty Grievance Procedures. This draft is being submitted to the Faculty Senate for its review and consideration. In this regard, the Faculty Senate is being asked to serve in an advisory role to the Office of Academic Affairs.

The present draft of the Grievance Procedures was based on a revision of the procedures presently in force. A special committee served in an advisory role to the Office of Academic Affairs in the development of these revised procedures. This committee was composed of the following individuals: Professors J. Camille Bell, Home Economics Education; Alice M. Denham, College of Education; J. Hadley Edgar, School of Law; Ernest B. Fish, Park Administration and Landscape Architecture; and Harley D. Oberhelman, Classical and Romance Languages.

The Academic Council was also asked to provide recommendations regarding the policy. In addition, the Faculty Status and Welfare Committee met several times this fall carefully analyzing, reviewing, and subsequently approving the present draft of the procedures that is being submitted to the Faculty Senate.

If you decide to schedule the Grievance Procedures for discussion at the Faculty Senate meeting on Wednesday, January 12, I will be happy to be available for questions. I do not plan to be on campus the week of February 9, which would be the following scheduled meeting. I would be happy to discuss this matter further with you at your convenience.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "John R. Darling".

John R. Darling
Vice President

JRD/ljs
attachment
xc: Professor Charles P. Bubany

TEXAS TECH UNIVERSITY
FACULTY GRIEVANCE PROCEDURES

Foreward

The University operates under a philosophy that emphasizes the importance of ensuring the rights of its faculty. Both personnel and operating policies are formulated in order to assist administrators and faculty in working harmoniously toward the collective goals and objectives set forth by the Board of Regents. When a situation arises that results in a grievance by an individual faculty member, efforts will be made to determine the facts surrounding that grievance and to respond appropriately and justly.

The purpose of these procedures is to address grievances of faculty members and to provide a mechanism for resolving them. If the grievance is related in any way to tenure, the faculty member should refer to the Texas Tech University Tenure Policy. Grievances of faculty relating to admission to tenure, grounds for termination, termination procedure, and notice of nonreappointment or termination are not to be covered by the procedures noted below.

Whenever possible, problems should be solved within the University at the level at which they arise. However, each member of the Texas Tech University faculty shall have the right to a hearing and an appeal for redress of grievance through established channels. Access to these channels is restricted to University employees or those who were employees when the action or inaction leading to the grievance occurred.

A faculty member holding an administrative position will have access to these procedures with regard to his or her faculty duties, but will not have access to the procedures with regard to his or her administrative duties. The times noted for response in these procedures are to be followed except under extenuating circumstances agreed upon in writing by both parties to the grievance.

I. Grievance Initiation

A. Before any formal grievance is filed, there shall be an informal discussion between the aggrieved and the administrative officer who made the initial decision in question, or whose action or behavior is in question, seeking a settlement. The request for an informal discussion shall be in writing and dated, and be initiated within 15 working days after the aggrieved has become aware of the action perceived as a possible grievance. The informal discussion will be held, and a response received by the aggrieved within 10 working days of receipt by the administrator of the request for such a discussion. If a response is not received from the administrator within 10 working days of the date of the request for an informal discussion, it shall be considered a denial by the administrator. In case of doubt as to the individual whose decision caused the grievance, the administrator dealing directly with the aggrieved is the appropriate administrative officer with whom to initiate an informal discussion.

B. If a settlement cannot be reached informally, the aggrieved faculty member may then submit a formal grievance and proceed with the following schedule.

1. The grievance must be submitted in writing and provide sufficient detail to allow a response. The grievance will contain a statement of the facts of the case and a precise description of the remedy sought by the grievant.
2. The grievance must be signed and dated by the grievant and filed within 5 working days from the date a response from the administrator is received or in the case of no response, within 15 working days from the date an informal discussion was requested. It shall be filed with the administrator who made the initial decision.
3. The administrator may decide the grievance with or without the assistance of an advisory committee. If the administrator chooses to appoint an advisory committee, that committee must have at least three members. The aggrieved shall have the right to challenge any individual selected as a member of this advisory committee, with the total number of challenges being limited to three. As each challenged member is excused, his or her replacement will be selected by the administrator appointing the committee.
4. The administrator shall initiate review of the grievance and inform the aggrieved of the procedure to be followed as soon as possible, but no later than 5 working days after the filing of the formal grievance. If an advisory committee is to be used, it will be established at this time.
5. If the administrator refers the grievance to an advisory committee, the committee shall meet with the aggrieved, review the grievance, and render a recommendation as promptly as is feasible, but no later than 15 working days following referral of the matter by the administrator. This review is intended to be an informal procedure rather than a formal hearing of the grievance. However, the advisory committee is to make every reasonable effort to ensure the fundamental fairness and confidentiality of the review. The committee's recommendation shall be submitted in writing to the administrator.
6. The administrator's written decision shall be provided to the aggrieved within 5 working days of the receipt of the committee's recommendation. If the grievance is reviewed without a committee, the administrator's written decision shall be provided to the aggrieved within 15 working days of the receipt of the written formal grievance. Failure of the administrator to respond within the time periods noted above shall be deemed a denial of the grievance.

C. The aggrieved may withdraw a formal grievance at any stage of the proceeding but may not reinstate it once it is withdrawn. The withdrawal

request should be made in writing to the individual hearing the appeal at the time of the withdrawal.

II. Administrative Decision Appeals

A. If the faculty member objects to the decision by the administrative officer, further written appeals may be made through regular administrative channels. A written appeal shall be initiated within 10 working days of the receipt of an administrative decision and shall include copies of the original grievance, written decision(s), and reasons for the appeal. The written appeal shall be transmitted to the next level of administration above the source of the decision. At each level of appeal, the administrator who receives the appeal shall proceed in accordance with the grievance procedure schedule noted in section I.B. All parties to a grievance shall be kept informed of the appeal procedure being followed.

B. The aggrieved member of the faculty who feels that a grievance has not been resolved after appealing to and receiving a decision at each administrative level up to and including the Vice President for Academic Affairs may then appeal directly to the President of the University for review and consideration. This appeal must be made within 10 working days following receipt of the decision of the Vice President for Academic Affairs. The request must be in writing and must include copies of the original grievance, written decisions from all previous administrative appeal levels, and reasons for the appeal.

C. In hearing the appeal, the President will use a Grievance Committee composed of five representatives chosen by lot by the President from the Faculty Grievance Panel. The Committee will be chosen within 10 working days of receipt, by the President, of the written appeal. Composition of the Faculty Grievance Panel is discussed in section IV below. Either party in the dispute can challenge a member of the Grievance Committee. The total number of challenges by either party will be limited to three. As each challenged member is excused, his or her replacement will be chosen by lot by the President from the remaining members of the Faculty Grievance Panel.

III. Grievance Committee Hearing

A. Upon receipt of a request from the President of the University, the Grievance Committee will schedule a hearing. This hearing must be held within 15 working days after receipt of the request from the President. The Grievance Committee will elect its own chairperson. The chairperson's notice scheduling a time and place for the hearing must be delivered to the parties involved 5 working days prior to the hearing. These time limits are a guide and may be changed by mutual written agreement of the Grievance Committee and the parties to the grievance. A copy of the notice and a copy of the written appeal as set out in Section II.A. will be furnished to the members of the Grievance Committee.

B. The formal hearing will be conducted in accordance with procedures established by the Grievance Committee and agreed upon by the parties to

the grievance. If the parties to the grievance cannot agree upon procedures, a decision by the Grievance Committee will prevail. The aggrieved will present his or her own case and has the right to present whatever evidence, written or oral, he or she considers relevant or material to the grievance. This includes the calling of witnesses. After the presentation by the aggrieved, the administrator about whose actions or decisions the grievance is filed will be given an opportunity to present his or her case under the same rules as the aggrieved. The Grievance Committee may also call witnesses as it considers appropriate. Both the aggrieved and the administrator referred to above may question all witnesses.

C. Evidence considered in the hearing must relate to the grievance and be of the type relied on by faculty members or administrators in the conduct of their professional affairs. After all evidence is received, the Grievance Committee will meet and consider the case. The opinion held by the majority of the members will constitute the committee's recommendations. The committee must provide its recommendations in writing to the President of the University, with copies to the parties to the grievance, no later than 10 working days from the last date of the hearing of the case. Minority opinions of the committee may also be submitted to the President. Recommendations to the President are advisory in nature.

D. In cases where an appeal is made to the President of the University, a decision will be made on the grievance and it will be reduced to writing. The President's decision, which is the final University decision on the grievance, will be sent to the aggrieved within 10 working days of receipt of the Grievance Committee's recommendations. If the President's decision is different from that recommended by the Grievance Committee, the grievant and the committee will be so informed in writing of the reasons therefore.

IV. Faculty Grievance Panel

A. The Faculty Grievance Panel will consist of two representatives from each college, including the School of Law, who are full-time tenured faculty members. Representatives will be elected for two-year alternating terms, to commence on September 1. They will serve until their successors are elected. Faculty members who have served a full two-year term will not be eligible for reelection to another two-year term, or appointment to an unexpired term, until two years after the expiration of the existing or previous term of service. Should a representative be unable to complete a two-year term of service, a replacement will be elected under the normal procedures to serve the unexpired portion of the term.

B. The Vice President for Academic Affairs will provide the Faculty Senate with a list of full-time tenured faculty of the colleges. The Faculty Senate will have the responsibility of developing and implementing election procedures whereby each of the colleges and the School of Law will elect its representative(s) from the list provided by the Vice President for Academic Affairs.

COMMENTARY TO THE FACULTY GRIEVANCE PROCEDURES

by

Charles P. Bubany, Chairman of the
Faculty Status and Welfare Committee

Preamble

As the preamble states, the purpose of the procedure is to establish a mechanism for handling grievances by faculty members which arise with respect to faculty duties. Grievances by rather than against administrators and grievances related to tenure and termination are not covered.

The main thrust of the procedure is that serious efforts to air and to resolve the grievance are to be exhausted at the departmental level before the formal grievance procedure, involving an appeal through channels and finally the President, is initiated. Specific time limits for each step are established (see table attached).

I. Grievance Initiation

A.

Definition of Grievance. The term "grievance" is not defined and thus apparently includes any decision by an administrator which a faculty member concludes is detrimental to this or her interest with the exception of any administrative decision for which a separate review procedure exists. Disputes between faculty members not resolved to the faculty member's satisfaction by the administrator are implicitly included.

Required Action by Grievant. To establish a clear point for initiation of the procedure, a written request for an informal discussion with the administrative officer who made the questioned decision is required. This request must be made within 15 working days "after the aggrieved has become aware of the action perceived as a possible grievance." The committee discussed whether this establishes a subjective or objective limitation and concluded, in effect, that in situations in which a faculty member would reasonably have been expected to know of the possible grievance more than 15 working days before the request, the burden would be on the grievant to show otherwise.

Action by Administrator. The procedure appears to impose an affirmative obligation on the administrator to hold the informal discussion and to respond within 10 working days of the request. Failure to respond (or to have the discussion at all) is considered a denial of the grievance.

B.

Filing a Formal Grievance. Within 5 working days of a response or within 15 working days from the request for discussion, if there is no response, the grievant may file a formal grievance with the administrator.

Disposition. The administrator has the option of using an advisory committee of three members (presumably faculty) to conduct an informal review and to make recommendations. If a committee is used, the grievant must receive the administrator's written decision within 25 working days of the filing of the grievance; if not, within 15 days.

II. Administrative Decision Appeals

Administrative Appeal. The grievant may seek review of the decision of the administrator and each successive administrator, including the Vice President for Academic Affairs, by filing a written appeal within 10 working days of the receipt of each administrator's decision. Each successive administrator may use an advisory committee and must act within the same time limits as in I. B.

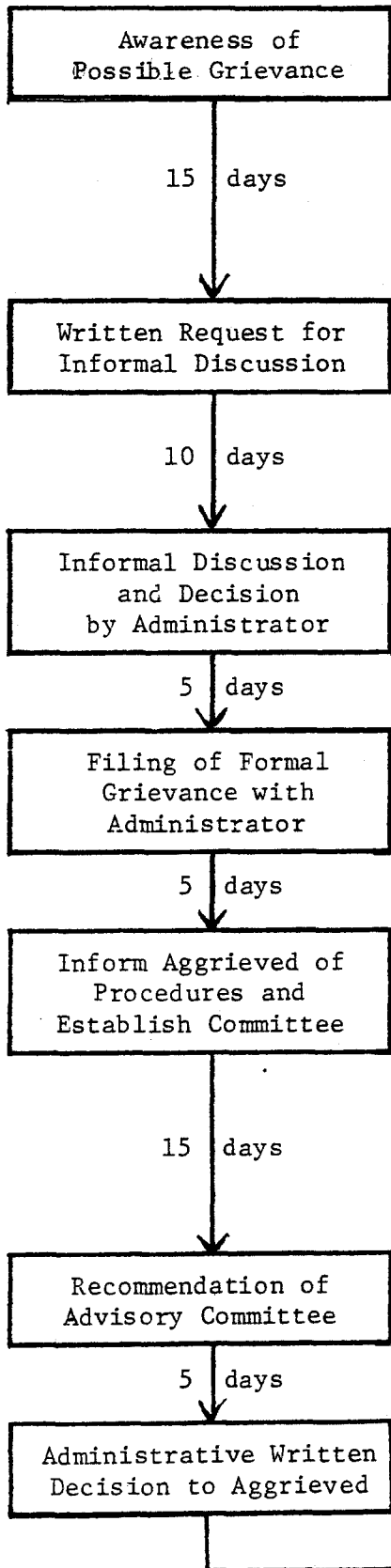
Appeal to President. The grievant may appeal to the President within 10 working days of receipt of the decision from the Vice President for Academic Affairs. This appeal must be heard by the Grievance Committee, five persons chosen by lot from the Faculty Grievance Panel within 10 working days of receipt of the appeal. Each party to the dispute has 3 peremptory challenges.

III. Grievance Committee Hearing

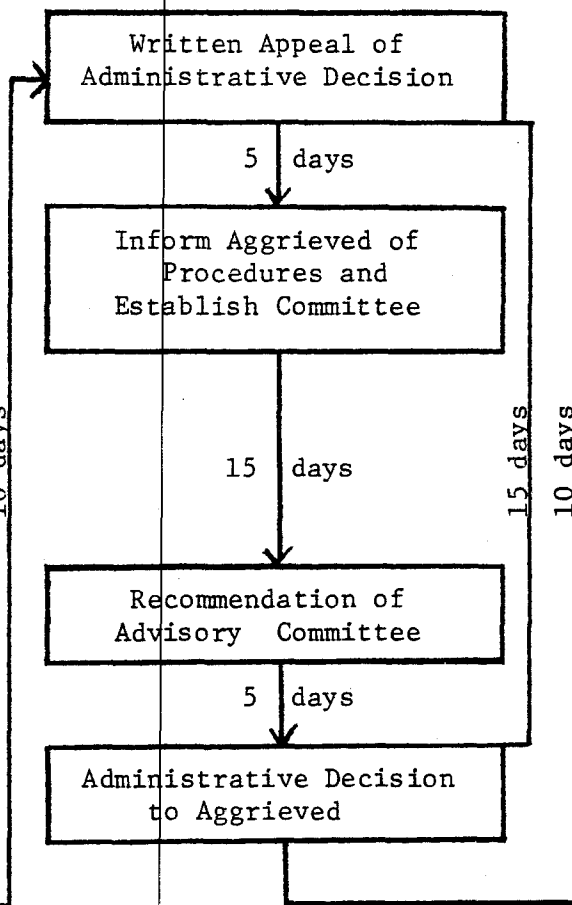
After providing for notice and time of the hearing, this section sets the procedure for the hearing before the Grievance Committee. An attempt is made to make it non-adversary and investigative in nature. The aggrieved and the administrator whose decision is claimed to have led to the grievance each may present evidence to the committee and may call other witnesses, as may the committee, and also may question all witnesses. Other details of procedure are to be agreed upon by the parties, if possible, but if not are decided by the committee. The final recommendations of the committee are submitted to the President who, if his decision is different from the recommendations, must inform the committee and the grievant of the reason. It will be noted that neither party to the dispute has a right to be represented by counsel, but there is the right to be present during the whole proceeding and the right to examine all witnesses. A request to be represented by counsel would be addressed to the discretion of the committee and apparently would be a matter subject to negotiation under the "agreed procedures" provision. The feeling of the Office of the Vice-President for Academic Affairs and the majority of the committee was that the presence of counsel, as a general rule, would unduly obstruct and prolong the proceedings, without significant gain to fact-finding and fairness in the proceeding.

TIME LINE FOR FACULTY GRIEVANCE PROCEDURE

Procedure with Initial
Administrator



Procedure with Successive
Administrators



Procedure with
President

