

OP 32.05: Faculty Grievance Procedures

DATE: January 31, 2003

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to prescribe policies and procedures concerning the faculty grievance procedures.

REVIEW: This OP will be reviewed in October of even-numbered years by the senior vice provost with substantive revisions forwarded to the provost and senior vice president.

POLICY/PROCEDURE

1. Foreword

- a. 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.
- b. The purpose of these procedures is to address grievances of faculty members related to the actions or decisions of administrators and to provide a mechanism for resolving them. If the grievance is related in any way to tenure decisions, 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 non-reappointment or termination are not to be covered by the procedures noted below. Complaints relating to legal issues covered by Title IX or by the Texas Whistleblower Act should be made to the appropriate E.E.O. (Equal Employment Opportunity), government, or law enforcement officials, rather than being handled through the procedure described below.
- c. Whenever possible, problems should be solved at the administrative 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.
- d. In conformance with Article 5154C, Sec. 6, Vernon's Annotated Civil Statutes, a faculty member has the right to present grievances individually or through a representative who does not claim the right to strike.

A faculty member may present a grievance without retaliation. The filing of a grievance, however, shall not affect the ability of Texas Tech University to pursue disciplinary or separation actions.

- e. A faculty member holding an administrative position will have access to these procedures with regard to faculty duties, but will not have access to the procedures with regard to administrative duties (see OP 70.10).
- f. After the grievance is presented, the time periods for action prescribed in these procedures should be followed unless reasonable extension is required by unusual circumstances or

because a deadline occurs between semesters or in summer, when relevant persons are away for extended periods. In the absence of the foregoing conditions, times for action should be extended only for university holidays or by mutual agreement of the parties and, in an appeal, with concurrence of the Grievance Committee.

2. Grievance Initiation and Hearing

- a. The grievant will present a written description of the grievance and proposed resolution to the administrator who made the challenged decision or has initial authority to resolve the grievance. The grievance will be presented to the administrator within 40 calendar days after the grievant becomes aware of the action constituting the grievance and has exhausted all apparent efforts to settle the dispute informally. (The 40 days will be extended, if necessary, for summers, when relevant parties are unavailable for attempts at informal resolution of the matter.) The grievant and administrator will meet within 21 calendar days of receipt by the administrator, and the administrator's written decision on the grievance will be provided to the grievant within 10 calendar days after the meeting is concluded. If the decision is not acceptable, or if the administrator does not render a written decision within 10 calendar days, the grievant may appeal following the procedures below.
- b. The grievant or the administrator may request mediation of the grievance within 10 calendar days of receipt by the administrator. If both parties agree, a person acceptable to both parties will mediate the grievance. If the parties are unable to agree upon a mediator within 10 calendar days of the agreement to mediate, the provost will select a mediator qualified under Section 154.052 of the Texas Civil Practice and Remedies Code. The grievance will be presented for mediation within 21 calendar days after the mediator has been selected.

If mediation fails to resolve the grievance, the administrator will provide a written decision to the grievant within 10 calendar days after the mediation is concluded. If the decision is not acceptable to the grievant, the grievant may appeal as set out below.

3. Appeal to the President

- a. The appeal procedure is initiated by the grievant providing a written request to the president asking that the decision of the administrator be reviewed. The grievant will provide copies of the original grievance, written decisions and a proposed resolution to the president. The appeal will be filed within 15 calendar days of the grievant's receipt, or lack thereof, of the written administrative decision to which the grievant objects.
- b. The president will solicit a recommendation that will resolve the grievance from a Grievance Committee composed of five persons, which will be chosen within 15 calendar days of receipt of the appeal by the president. Individuals will be chosen by lot from the Faculty Grievance Panel for service on the Committee. Names will be drawn from this pool at random by the president of the Faculty Senate or his/her designee in the presence of the provost or his/her designee. Persons drawn for service on the committee will be allowed to present to the provost reasons why a recusal should be granted. After these determinations are made, the names of 13 individuals making up the Grievance Hearing Panel will be presented to the parties. (The composition of the Faculty Grievance Panel is discussed in Section 5. of this OP.) Each party to the dispute may challenge not more than three persons selected for the Committee. After challenges by all parties, the first seven persons remaining will comprise the Grievance Committee, with the first five serving as members and the final two serving as alternates. The president or his or her representative will then convene the

committee, give the committee its charge, assist the committee in identifying the parties to be involved in the process, provide it with guidelines to afford the parties due process, request that the committee meet with General Counsel to offer further guidance on the process, and deliver to each committee member a copy of the grievance and all supporting documentation.

4. Grievance Committee Hearing

- a. Upon receipt of a request from the president, the Grievance Committee will schedule a hearing. This hearing must be held within 21 calendar 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 seven calendar days prior to the hearing. These time limits are a guide and may be changed for university holidays and by mutual written agreement of the Grievance Committee and the parties to the grievance.
- b. The formal hearing will be conducted in accordance with procedures established by the Grievance Committee. The grievant or the grievant's representative(s) or counsel will present the grievant's case. The grievant has the right to present information, written or oral, considered relevant or material to the grievance, including the calling of witnesses. This information may be presented in written or oral form.

After the presentation by the grievant, the administrator's case will be presented under the same rules as those that were applied for the grievant. The administrator may be represented in the process as well. The Grievance Committee may call witnesses, as it considers appropriate. The grievant and the administrator may question all witnesses.

- c. Evidence considered in the hearing must relate to the grievance. 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 findings and recommendations of the committee must relate specifically to the grievance and the recommendations must be clearly stated. The committee must provide its recommendations in writing to the president of the university, with copies to the parties to the grievance, within 15 calendar days after the hearing is concluded. Minority opinions of the committee may also be submitted to the president. Recommendations to the president are advisory in nature.
- d. The president will send a written decision, which is the final university decision on the grievance, to the grievant within 15 calendar days of receipt of the Grievance Committee's recommendations. If the president's decision differs from that recommended by the Grievance Committee, the written reasons for such difference will be provided to the grievant and the committee.
- e. The parties may agree to a resolution of the grievance at any time from initiation of the grievance procedures until the president's final decision.

5. Faculty Grievance Panel

- a. The Faculty Grievance Panel will consist of two representatives and an alternate 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. Faculty members who have served in any administrative post at or above the level of chair of a department during the preceding five years are not eligible.

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 selected under the normal procedures to serve the unexpired portion of the term.

- b. The provost will provide the Elections Committee with a list of full-time tenured faculty of the colleges. The Elections Committee 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 provost.

6. **Revision.** The TTU administration, Faculty Senate, or other academic groups may submit proposals for OP revisions to the PSVP. Such proposals for revisions, regardless of their source, shall be reviewed and approved by the Faculty Senate. Following this review, the Faculty Senate shall present approved proposals to the faculty for consideration. In this process, the voting faculty¹ shall be polled for approval or disapproval of the proposals. If approved by a majority of those voting, the proposals shall be forwarded by the PSVP to the president for his/her review and approval.

¹The voting faculty consists of all tenured or tenure-track faculty on full-time appointments who have completed a residence of one year at this university.