

<b>Name of Policy:</b> <a href="#">Faculty appeals</a>  <b>Policy Number:</b> 3364-72-51  <b>Approving Officer:</b> President  <b>Responsible Agent:</b> Provost and Executive Vice President for Academic Affairs  <b>Scope:</b> All faculty in the College of Medicine and Life Sciences (COMLS), faculty in the College of Health and Human Services (HHS) not bound by a collective bargaining agreement, and other faculty employed primarily by the University of Toledo not bound by a collective bargaining agreement. This policy does not apply to faculty with the following types of appointments: adjunct, visiting, joint appointments in which the primary college is not COMLS or HHS, ProMedica practitioner, community-based or volunteer faculty.		  <b>Effective date:</b> October 26, 2023  <b>Original effective date:</b> June 11, 2012	
<b>Keywords:</b>			
	New policy		Minor/technical revision of existing policy
X	Major revision of existing policy		Reaffirmation of existing policy

(A) Policy statement

Whenever possible, disputes should be resolved informally at the lowest level. To that end, all faculty and administrators are encouraged to engage in free and open communication in the airing of differences.

(B) Purpose of policy

To provide a procedure concerning faculty appeals.

(C) Scope

This policy applies to all faculty in the college of medicine & life sciences (“COMLS”), faculty in the college of health and human services (“HHS”) not bound by a collective bargaining agreement, and other faculty employed primarily by the university of Toledo and not bound by a collective bargaining agreement. This policy does not apply to faculty with the following types of appointments: adjunct, visiting, joint appointments in which

the primary college is not COMLS or HHS, ProMedica practitioner, community-based or volunteer faculty. This policy does not apply to promotion and tenure decisions.

(D) Definitions

The term “appeal” refers to a written complaint concerning the interpretation or application of a specific term or provision of university, college or department policy, concerning a disciplinary act, or alleging that violations of due process or procedures have occurred, or that the application of such criteria was clearly erroneous, arbitrary, or capricious. Appeals involving discretionary decisions will be processed solely with respect to whether or not the prescribed procedures were followed and whether or not prescribed criteria were observed.

The term “appellant” refers to a university faculty member not bound by a collective bargaining agreement excluding faculty with the following types of appointments: adjunct, visiting, joint appointments in which the primary college is not COMLS or HHS, ProMedica practitioner, community-based. .

The term “days” means calendar days except Saturdays, Sundays, legal holidays, and winter break, as observed by the university.

(E) Procedure

Prior to filing an appeal, the appellant should pursue every possible means of resolving the issue in question by consultation with the party or parties involved and with the department chair and the dean. To that end, all faculty are encouraged to engage in free and open communication in the airing and resolution of differences.

(1) Initial filing

If unresolved, the appellant will set forth in writing the scope and nature of the appeal and the alleged violation within fifteen days following the act or omission giving rise to the appeal or the date the faculty member knew, or reasonably should have known, of such act or omission (initial letter). The initial letter will state the nature of the act or omission giving rise to the appeal; the date when the act or omission occurred; the university, college, or departmental policy provision allegedly violated; and will summarize all efforts made to resolve the issue by the affected parties, including consultation with the pertinent university offices such as office of diversity, equity, and inclusion, human resources, or compliance, and the remedy sought. The initial letter must be signed by the appellant and filed at the lowest level as described below with authority to resolve the appeal (E.2).

The appeal must attach all documentation and information and identify all witnesses the appellant wishes the appeal committee to consider.

(2) Levels of authority

The initial letter may be submitted directly to the dean of the college in which the faculty member has their primary appointment if this is the lowest level of authority required to resolve the appeal. If the dean is a party to the appeal, the initial letter will be submitted to the provost and executive vice president for academic affairs (“provost”). If the provost is a party to the appeal, the initial letter will be submitted directly to the president.

(3) Receipt of the initial letter

The appropriate recipient of the initial letter has the opportunity to resolve the issue(s) to the satisfaction of all parties, using existing administrative structure and authority. The appropriate recipient of the initial letter will respond in writing to the appellant and will indicate the remedy to the appeal. A concurrent copy will be given to the next higher level of authority. If not resolved to the mutual satisfaction of all parties within twenty days of receipt of the initial letter, the appellant will have five days to request an appeal to the next highest level of authority. This authority will have fifteen days to send a written response to the appellant indicating the outcome of the review with recommended remedy to the appeal. If the appellant does not accept the written response to the appeal from the next higher level of authority, the appellant may within five days file an appeal to the faculty appeal committee.

(4) Faculty appeals committee (“FAC”)

(a) The FAC will be a standing committee of the faculty of the university of Toledo and will consist of ten full-time faculty members holding regular appointments at the rank of professor or associate professor and who are not bound by a collective bargaining agreement. The FAC will be composed of eight members from COMLS and two members from HHS. In addition, a faculty member from the university of Toledo faculty senate, from either COMLS or HHS, will be selected by the FAC chair and will serve as the eleventh *ex officio* member of the FAC with voting rights and will serve a two year term. This *ex officio* faculty member cannot serve for more than two terms. The faculty of COMLS and HHS will either select their respective FAC members for staggered terms of four years as outlined in their college elaborations or policies. Per COMLS policy 3364-81-27 on standing committees, the COMLS

committee on committees (“CoC”) will meet once per year to review and approve the eight COMLS members to the FAC. The CoC decision will be communicated to the selected faculty members. The director of the COMLS office of faculty affairs and development will serve as a non-voting *ex officio* member of the FAC and will be responsible for meeting documentation and communication.

- (b) The members of the FAC will annually elect a chair and vice chair. The membership, chair, and vice chair of the FAC will be communicated to the president of the faculty senate by the director of the COMLS office of faculty affairs and development. This information will be communicated to the university faculty annually through the faculty senate.
- (c) Any member of the FAC who has an appeal pending before the FAC will be removed from all FAC activities until the appeal is resolved. FAC members who cease to be full-time members of university faculty, or whose duties become primarily administrative at a level higher than chair, will be ineligible to continue serving. For COMLS, the COMLS CoC will hold a special meeting to suggest and nominate faculty members to replace the FAC member who has ceased to be a full-time faculty member and an eligible faculty member will serve in their place until the next scheduled selection/election.
- (d) FAC members will maintain confidentiality regarding all hearings, deliberations and recommendations to the extent permitted by law, subject to the Ohio public records act, Revised Code section 149.43.
- (e) For each appeal, the FAC chair will appoint four members from the FAC committee to serve as a hearing committee and will attempt to include at least one member from the same college as the appellant (“hearing committee”). The FAC chair (or vice chair, at the chair’s designation) will chair this five member hearing committee. The FAC chair will provide in writing to the appellant the names of the five member hearing committee. When the appellant believes a conflict exists between the appellant and an appointed member to the hearing committee, the appellant may send a request in writing within five days to the FAC chair that the member be replaced. Brief rationale for the request must be included. The FAC chair holds the discretion to determine whether the member is replaced as long as the FAC chair is not the member that the appellant has asked be replaced, in which case the determination will be made by the vice chair.

- (5) Prior to the hearing, the hearing committee will:
- (a) Fix the time and place for each hearing and, at least five days prior thereto, will deliver written notice through mail or electronic notification of the time and place of hearing to the Appellant and to the director of the COMLS office of faculty affairs and development.
  - (b) In addition:
    - (i) The appellant may not be represented at the hearing or during any part of the appeal;
    - (ii) The appellant is entitled to attend all hearings. However, the hearing committee will have the power to excuse from the proceeding any witness or witnesses during the testimony of other witnesses. The hearing committee will determine the propriety of the attendance of any other persons; and
    - (iii) A record of the proceedings will be made, including the collection of all testimony presented and evidence provided to the hearing committee.
  - (c) The hearing committee will:
    - (i) Determine whether the issues raised are appealable under the standard of review set forth in article D above;
    - (ii) Review the evidence and other information it deems relevant and deliberate;
    - (iii) Make separate findings of fact on the substantive issues presented;
    - (iv) The hearing committee may interview the appellant or others with relevant information;
    - (v) Issue recommendation(s) of the hearing committee, as to corrective action, if any, that might be imposed.
- (6) The recommendation(s) of the hearing committee will be made by majority vote in writing, as certified by the FAC chair's signature. Recommendation(s) of the hearing committee will consider the following evidence:

- (i) Records relied upon by the decision maker (*e.g.*, department chair or dean);
  - (ii) Appeal filed by the appellant; and
  - (iii) Additional information provided at the hearing.
- (7) The hearing committee will complete its deliberations and render its recommendation(s) in writing within twenty days of completion of the deliberations to the level of administrator above the involved party or parties, beginning with the provost, with a copy to the dean of the appropriate college, and to each party to the dispute. If the provost is a part of the appeal, recommendations of the committee will go to the president.
- (8) The final decision will be made by the provost or the president, whichever is the governing level above the parties in appeal, within twenty days from the date upon which the recommendation of the hearing committee is received. The appellant and all other affected parties will be informed in writing of the final decision. No other appeals can be made after this final decision.

<p><b>Approved by:</b></p> <p><i>/s/</i></p> <hr/> <p>Gregory Postel, MD President</p> <p><b>Date:</b> October 26, 2023</p> <p><b>Review/revision completed by:</b></p> <ul style="list-style-type: none"> <li>• <i>Provost and Executive Vice President for Academic Affairs</i></li> <li>• <i>Faculty Affairs Committee on Rules and Regulations</i></li> <li>• <i>Legal Affairs, HSC</i></li> </ul>	<p><b>Policies superseded by this policy:</b></p> <ul style="list-style-type: none"> <li>• <i>057 Faculty Grievances and Appeals (former Health Science Campus policy, previous review date 07/01/2003)</i></li> </ul> <p><b>Original effective date:</b> <i>June 11, 2012</i></p> <p><b>Review/revision date:</b> <i>October 26, 2023</i></p> <p><b>Next review date:</b> <i>October 26, 2026</i></p>
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