Name of Policy: **Faculty Grievance and appeals**

Policy Number: 3364-72-51

Approving Officer: President

Responsible Agent: Chancellor and Executive Vice President for Biosciences and Health Affairs; Provost and Executive Vice President for Academic Affairs

Scope: 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.

Effective date: Date

Original effective date: June 11, 2012

Keywords: Do not capitalize unless a proper noun

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(A) Policy statement

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

To complement the principles of academic freedom, faculty are to be protected from adverse decisions or actions resulting from or associated with unfair practice(s) or failure of due process that are clearly erroneous, arbitrary or capricious.

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

(B) Purpose of policy

To provide a procedure forum for due process concerning faculty grievance and appeals.
Scope

This policy applies to Occupational Therapy and Physical Therapy Faculty of the Judith Herb College of Education, Health Science and Human Service, and 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 College of Pharmacy and Pharmaceutical Sciences and College of Nursing, and that are 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.

Definitions

The term “grievance appeal” refers to a written complaint concerning the interpretation or application of a specific term or provision of university, college or department policy, or concerning a disciplinary act, or alleging that the application of violations of due process or such procedures have occurred, or that the application of such criteria was clearly erroneous, arbitrary, or capricious. Grievance 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 “Grievant appellant” refers to a university faculty member not bound by a collective bargaining agreement (salaried only) 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. In the Colleges of Education, Medicine, Pharmacy and Nursing.

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

Issues that are grievable under this policy include adverse actions that directly affect the Grievant and that may include matters relating to the promotion, tenure or renewal of a faculty member subject to this policy, to the extent that an unfair practice or failure of due process has occurred to the Grievant that is clearly erroneous, arbitrary or capricious. Community, volunteer, adjunct and emeritus faculty are not entitled to the rights set forth in this Policy.

Procedure

Prior to filing a grievance appeal, the Grievant 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, staff and administrators are encouraged to engage in free and open communication in the airing and resolution of differences.

(1) Initial filing

If unresolved, the Grievant appellant will set forth in writing the scope and nature of the grievance appeal and the alleged violation within fifteen days following the act or omission giving rise to the grievance 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 grievance appeal; the date when the act or omission occurred; the university, college, or departmental policy provision allegedly violated; and will summarize all efforts made from time to time to resolve the issue by the affected parties, including consultation with the pertinent University offices such as Institutional Office of diversity, equity, and inclusion, human resources, or compliance, and the remedy sought. The initial letter must be signed by the grievant appellant and filed at the lowest level as described below with authority to resolve the grievance appeal (E.2). The appeal must attach all documentation and information and identify all witnesses the appellant wishes the appeal committee to consider, filed with the Department Chair of that faculty member within forty (40) working days of the date on which the Grievant knew or should have known of the grievable adverse decision or action. Whenever the Chair is a party to the grievance,

(2) Levels of authority

The initial letter may will 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 grievance appeal. Whenever the dean is a party to the grievance appeal, the initial letter will be submitted to the Chancellor and Executive Vice President for Biosciences and Health Affairs (“Chancellor”) or Provost and executive vice president for academic affairs (“provost”). Whenever the provost is a party to the appeal, the initial letter will be submitted directly to the president.
whichever is the governing level above the party in grievance. Whenever the Chancellor or Provost is a party to the grievance, the Initial Letter will be submitted directly to the President. Whenever the President is a party to the grievance, the initial letter will be submitted directly to the Chair of the Board of Trustees.

(3) Receipt of the initial letter

The appropriate recipient of the initial letter will have the opportunity to resolve the grievable issue(s) to the satisfaction of all parties, using existing administrative structure and authority. The appropriate recipient of the initial letter will respond within writing to the grievant/appellant and will indicate the remedy to the grievance 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 working days of receipt of the initial letter, the grievant/appellant will have five days to request an appeal to the next higher level of authority. This authority will have fifteen days to send a written response to the grievant/appellant indicating the outcome of the review with recommended remedy to the grievance appeal. If the grievant/appellant does not accept the written response to the grievance appeal from the next higher level of authority, the grievant/appellant may within five days file an appeal to the faculty Grievance Appeal Committee. The Initial Letter and any further relevant information may be referred by the Grievant to the Chair of the Faculty Grievance Committee. As used in this policy, the term “working days” means calendar days except Saturdays, Sundays, and legal holidays as observed by the University.

(4) Faculty Grievance Appeals committee (“FAGC”)

(a) The FAGC will be a standing committee group 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 FAGC will be composed of eight members from the COMLS and two members from the College of Health and Human ServicesHHS. In addition, a faculty member from the university of Toledo faculty senate, from either COMLS or HHS, will be appointed by the president of the University of Toledo Faculty Senate selected by the FAC chair and will serve as the eleventh ex officio member of the FAC/FAC with voting rights and will serve a two year term. This ex officio faculty member cannot serve for more than two terms.
Excluding the College of Graduate Studies, FGC representation will correspond to the relative number of faculty in each college who are not bound by a collective bargaining agreement, with each college having at least one (1) faculty representative. The faculty of COMLS and the College of Health and Human Services (HHS) each college will either select or elect 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 elections will be organized each year by the COMLS Office of Faculty Affairs and the results CoC decision will be communicated to the selected faculty members by the Faculty Committee on Rules and Regulations. The FGC will report to the Chancellor or Provost. The director of the COMLS office of faculty affairs and development will serve as a non-voting ex officio member of the committee FAC and will be responsible for meeting documentation and communication.

(b) The members of the FGC FAC will annually elect a chair and vice chair. The membership, chair, and vice chair, and chairmanship of the FGC 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 by the Faculty Committee on Rules and Regulations.

c) Any member of the FGC FAC who has a grievance appeal pending before the FGC FAC will be removed from all FGC FAC activities until the grievance appeal is resolved. FGC 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. The For Office of Faculty Affairs COMLS, the COMLS CoC will conduct a special election meeting to suggest and nominate faculty members to replace the Dean of that college will appoint a new FGC FAC member who has ceased to be a full-time faculty member and an eligible faculty member to serve in their place until the next scheduled selection/election.

d) FGC FAC members will maintain confidentiality with regard to all hearings, deliberations and recommendations to the extent permitted by law, and except that items reduced to writing are subject to the Ohio public records act, Revised Code sections 149.43.
For each grievance appeal, the FAC chair of the FGC will appoint four members from the FGCFAC committee pool to serve as a hearing committee, and will attempt to include at least one member from the same college as the Grievantappellant (“hearing committee”). The FGCFAC 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 Grievantappellant believes a conflict exists between the Grievantappellant and an appointed member to the hearing committee, the Grievantappellant may send a request in writing within five days to the FAC chair of the FGC that the member be replaced. Brief rationale for the request must be included. The FAC chair will have the discretion to determine whether the member is replaced as long as the FAC chair is not the member that the Grievantappellant has asked be replaced, in which case the determination will be made by the vice chair.

Prior to the hearing, the hearing committee will:

(a) Fix the time and place for each hearing and, at least five working days prior thereto, will deliver written notice through mail or electronic notification of the time and place of hearing to the GrievantAppellant and to the director of the COMLS office of faculty affairs and development.

(b) In addition:

(i) The Grievantappellant may not be represented at the hearing by an attorney unless waived by the Chair, in which case University legal counsel may also be present during any part of the appeal;

(ii) The Grievantappellant 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. It will be discretionary with the hearing committee to 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 grievable and appealable under the standard of review set forth in article D above;

(ii) Review the evidence, testimony, 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; and

(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 Committee-FAC chair’s signature. Recommendation(s) of the hearing committee will not consider any following evidence: documentation or testimony taken outside the hearing unless agreed to by mutual consent of the Grievant, the University and the Hearing Committee. If agreement is not reached, a new hearing may be held.

(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 working days of completion of the deliberations to the level of administrator above the involved party or parties, beginning with the Chancellor or 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. If the Chancellor or the Provost is a part of the grievance, recommendations of the Committee will go to the President. If the President is a part of the grievance, recommendations and decisions of the Committee will go to the Board of Trustees, through the Academic Committee of the Board of Trustees, appropriate Board Committee.
The final decision will be made by the Chancellor or the provost or the president, whichever is the governing level above the parties in appeal, or the President, whichever is the governing level above the parties in grievance, within fourteen-twenty-working-days from the date upon which the recommendation of the hearing committee is received. The Grievant/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.

The Grievant may appeal the decision in writing within twenty (20) working days of the date in which notice was given of the final decision to the next level of governance above the decision maker. The matter will be reviewed on the basis of the existing record and no new evidence or arguments will be heard. A decision will be made within twenty (20) working days of the appeal. If the appeal is submitted to the Academic Committee of the Board of Trustees, the final decision will be made within twenty (20) working days of receipt of the appeal, or within one (1) week of the next regular appropriate Board of Trustees Academic Affairs Committee meeting. The decision by the Board of Trustees Academic Committee will be final.

Approved by:

Gregory Postel, MD
President

Date: Date

Review/revision completed by:
- Provost and Executive Vice President for Academic Affairs
- Faculty Affairs Committee on Rules and Regulations
- Legal Affairs, HSC

Policies superseded by this policy:
- 057 Faculty Grievances and Appeals (former Health Science Campus policy, previous review date 07/01/2003)

Original effective date:
June 11, 2012

Review/revision date:
Date list of all review/revision dates in chronological order from oldest to newest

Next review date:
Date three years after last review