



## **Review of the University of Maryland College Park Policies and Procedures Governing Faculty Grievances**

**PRESENTED BY** Patricio Korzeniewicz , Chair

**REVIEW DATES** SEC – March 12, 2018 | SENATE – April 4, 2018

**VOTING METHOD** In a single vote

**RELEVANT POLICY/DOCUMENT** [II-4.00\(A\) – University of Maryland College Park Policies and Procedures Governing Faculty Grievances](#)

**NECESSARY APPROVALS** Senate, President

### **ISSUE**

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In September 2017, the Senate Executive Committee determined that the University of Maryland, College Park Policies and Procedures Governing Faculty Grievances (II-4.00[A]) were in need of revision. The policy was established in 1990 and had not been significantly revised since that time. The adjudication process within the policy is administered by the Executive Secretary and Director of the Senate, who reported to the Executive Committee significant concerns with the procedures and timelines within the document. In September 2017, the Senate Executive Committee (SEC) voted to charge the Senate Faculty Affairs Committee (FAC) with a comprehensive review of the policy and procedures.

### **RECOMMENDATION(S)**

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The Faculty Affairs Committee recommends that the University of Maryland, College Park Policies and Procedures Governing Faculty Grievances (II-4.00[A]) be amended as shown in the policy document immediately following this report.

### **COMMITTEE WORK**

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The Faculty Affairs Committee (FAC) began reviewing its charge immediately upon receiving it. The FAC consulted with the Associate Provost for Faculty Affairs, the Faculty Ombuds Officer, the Executive Secretary and Director of the Senate, and the Office of General Counsel (OGC) throughout its review. The FAC researched grievance policies at peer institutions and reviewed adjudication procedures within existing University of Maryland processes for comparison.

The grievance policy was established in 1990 to allow for peer review of a conflict to determine whether there had been a violation of a policy or established procedures. The types of complaints reviewable under the procedures can range from grievances about wrongful termination or salary inequities to interpersonal conflicts. The policy lays out a two-stage process for considering grievances. The informal resolution process involves a confidential attempt to review the grievance, formulate it in a way that could be actionable, and mediate between the parties involved in the

grievance. The Faculty Ombuds Officer manages the informal resolution process. Should mediation fail, the grievant may present a formal grievance to be heard by a panel of Faculty Senators.

Cases regularly go through the informal resolution process through the Faculty Ombuds Office. In the past ten years, only three grievances cases have gone through the formal process through the Senate, but each case has highlighted challenges in the policy that need to be addressed. The FAC identified key issues in the policy that cause administrative burden, as well as areas where technology could simplify the procedures. The FAC considered issues including but not limited to language on the finality of the decision; the grounds for a grievance; the role of legal counsel in the process; remedies available as a result of the process; whether grievants need to engage in the informal process before bringing a grievance forward to the Senate for review; provisions on confidentiality and necessary communication during the process; and the development and membership of the Faculty Grievance Hearing Board.

A subcommittee of the FAC developed a revised version of the policy for the committee in February, 2018, and after due consideration of the issues within the revision, the FAC voted to approve the revised policy via an email vote concluding on March 7, 2018.

## **ALTERNATIVES**

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The Senate could choose not to approve the revisions to the faculty grievance policy. However, it would lose the opportunity to clarify and streamline the grievance process that serves all faculty at the University of Maryland.

## **RISKS**

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There are no known risks to the University.

## **FINANCIAL IMPLICATIONS**

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There are no known financial implications.



## **Review of the University of Maryland College Park Policies and Procedures Governing Faculty Grievances**

### **2017-2018 Committee Members**

**Patricio Korzeniewicz** (Chair)  
**John Bertot** (Ex-Officio Provost's Rep)  
**Debabrata Biswas** (Faculty)  
**Marilena Draganescu** (Faculty)  
**Karol Dyson** (Faculty)  
**Michele Eastman** (Ex-Officio President's Rep)  
**Devin Ellis** (Faculty)  
**Timothy Hackman** (Faculty)  
**Stefanie Kuchinsky** (Faculty)  
**Nicole LaRonde** (Faculty)  
**Brooke Liu** (Faculty)  
**Karen McDonald** (Ex-Officio Director of Human Resources Rep)

**James McKinney** (Faculty)  
**Errica Philpott** (Exempt Staff)  
**Clara Montague** (Graduate Student)  
**Janice Reutt-Robey** (Ex-Officio CUSF Rep)  
**Aida Roige Mas** (Graduate Student)  
**Ellin Scholnick** (Ex-Officio Ombuds Officer)  
**Sacoby Wilson** (Faculty)  
*Vacant* (Undergraduate Student)

### **Date of Submission**

**March 2018**

## **BACKGROUND**

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In September 2017, the Senate Executive Committee determined that the University of Maryland, College Park Policies and Procedures Governing Faculty Grievances (II-4.00[A]) were in need of revision. The policy was established in 1990 and had not been significantly revised since that time. The adjudication process within the policy is administered by the Executive Secretary and Director of the Senate, who reported to the Executive Committee significant concerns with the procedures and timelines within the document. In September 2017, the Senate Executive Committee (SEC) voted to charge the Senate Faculty Affairs Committee (FAC) with a comprehensive review of the policy and procedures (Appendix 3).

## **COMMITTEE WORK**

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The Faculty Affairs Committee (FAC) began reviewing its charge immediately upon receiving it. The FAC consulted with the Associate Provost for Faculty Affairs, the Faculty Ombuds Officer, the Executive Secretary and Director of the Senate, and the Office of General Counsel (OGC) throughout its review. The FAC researched grievance policies at peer institutions and reviewed adjudication procedures within existing University of Maryland processes for comparison.

The grievance policy was established in 1990 to allow for peer review of a conflict to determine whether there had been a violation of a policy or established procedures. The types of complaints reviewable under the procedures can range from grievances about wrongful termination or salary inequities to interpersonal conflicts. The policy lays out a two-stage process for considering grievances. The informal resolution process involves a confidential attempt to review the grievance, formulate it in a way that could be actionable, and mediate between the parties involved in the grievance. The Faculty Ombuds Officer manages the informal resolution process. Should mediation fail, the grievant may present a formal grievance to be heard by a panel of Faculty Senators.

The procedures outline a cumbersome and unrealistic timeline and process for adjudicating the case through the Senate. For instance, at many stages of the process, the procedures give five days to convene a meeting of all individuals involved in the case to take an action, which is typically unrealistic given the schedule constraints of all involved. The procedures are also unclear on many aspects of the adjudication process, including: whether a faculty member can have legal representation, how many witnesses can be presented, how much flexibility the Hearing Board Chair has to determine procedural issues during hearings, and how the Hearing Board can communicate with the Faculty Ombuds Officer, among other issues. At the conclusion of the formal process, the panel makes a recommendation to the President, who makes a final determination on the case. The procedures are then unclear on the possible remedies or sanctions available, and whether the parties can seek further review by other offices or administrators if they remain unsatisfied with the status of their complaint.

Cases regularly go through the informal resolution process through the Faculty Ombuds Office. In the past ten years, only three grievances cases have gone through the formal process through the Senate, but each case has highlighted challenges in the policy that need to be addressed. The FAC identified key issues in the policy that cause administrative burden, as well as areas where technology could simplify the procedures.

In reviewing similar grievances processes at Big 10 and peer institutions, the FAC found that UMD's process is quite similar to that at peers (Appendix 1). All but one institution of fourteen included in the review have a process that has both an informal and a formal component, to allow for resolution to be pursued through mediation or a similar process prior to moving to a formal adjudication process. Three institutions required that all informal avenues be exhausted before a formal grievance can be filed, while five additional institutions have language strongly suggesting that the grievant should participate in the informal process. Most institutions have an Ombuds Officer or similar individual or committee, though only four institutions include Senators as Hearing Board members or otherwise include University Senate representation in the formal grievance process. Formal grievance committees at peers range in size from three to twelve members, with the average size being under five members. Eight institutions, more than half those reviewed, include some process for the grievant and the respondent to challenge, exclude, or choose Hearing Board members. In considering legal representation for the parties, six institutions allow legal counsel in an advisory capacity only, one institution prohibits legal representation, and four institutions allow legal counsel to represent the grievant during the proceedings.

The FAC also compared the grievance process to other UMD policies and procedures that focus on resolution of a complaint, such as policies on research and sexual misconduct, as well as with student grievance and conduct procedures (Appendix 2). The FAC determined that where appropriate, the faculty grievance policy should align with similar policies for resolution of different types of complaints, and it used language in other University policies as a guide when considering revisions to the policy language.

During its review, the FAC identified key concerns and principles that should be reflected in the policy, and formed a subcommittee to develop revised policy language. The subcommittee developed a revised version of the policy for the committee in February, 2018, and after due consideration of the issues within the revision, the FAC voted to approve the revised policy via an email vote concluding on March 7, 2018.

Key conclusions from the FAC's deliberations and policy revisions are included below.

## Finality of the Decision

During the FAC's review, concerns were raised that a grievant could go through the full grievance process and subsequently seek review under a different University process if they were not satisfied with the outcome of the grievance proceedings. Given that the policy includes three levels of review, including peer review and a review by the President, the FAC felt the policy should be final, though it acknowledged that the final decision through a University proceeding has no bearing on an individual's right to seek civil or other outside remedies. The FAC determined that a grievant should not be able to pursue remedy under another University policy once a final decision is made through these procedures, and that the policy should include language to address what happens when there is a pending criminal or civil suit. The FAC reviewed the undergraduate student grievance procedure and Sexual Misconduct Policy as it developed appropriate language.

## Grounds for a Grievance

The FAC reviewed the appropriate grounds for a grievance and determined that they should be clarified in the policy language. The policy currently allows an individual to grieve any action or inaction that is believed to be unfair, discriminatory, or improperly reached, though the definitions of each grounds were somewhat unclear.

## Role of Legal Counsel

The FAC considered the role of attorneys in the proceedings, since the current policy indicates that grievants may have legal counsel but does not specify their role. Recent cases have shown that the process can be very contentious and adversarial due in part to the active role attorneys have been allowed to play in the process. The FAC noted a contradiction in policy and practice, in that the policy states that this is not a legal proceeding, but in practice attorneys have been allowed to participate actively on either side. Attorneys tend to present legal motions which are difficult for a Hearing Board composed of faculty to address. Similar UMD processes, such as processes for sexual misconduct, allow the parties to have an attorney present during all proceedings to provide confidential advice, but do not allow the attorney to speak on behalf of the party during the proceedings. The FAC determined that this role would be more appropriate in this case as well, to ensure that it remains a peer-driven review process and to align with other University processes. The FAC developed language to allow legal counsel to serve only in an advisory role.

## Remedies

The FAC also considered what remedies can be recommended by the Hearing Board at the end of the formal grievance. The policy currently allows the grievant to specify what remedy they wish to receive as a result of the process, and asks the Hearing Board to make recommendations on remedies in its final report to the President. However, recent cases have shown that there are few appropriate and impactful remedies that can come from a grievance review, and many remedies are outside of the Hearing Board's expertise or authority to recommend. For instance, the Hearing Board does not have the authority to recommend that a faculty member be reinstated. Since most remedies will require an understanding of how the unit operates and may have financial implications, the FAC determined that the President should determine the appropriate remedies, rather than the Hearing board. The FAC developed revisions to indicate that the Hearing Board's focus should be on the findings in the case, and the President should work with the Provost and appropriate administrators to determine a remedy if the finding of the Board is upheld. However, the

FAC retained language that allows the grievant to suggest a desired remedy in the grievance complaint, so that they can still have an impact on the remedy as appropriate.

### Informal Process

The current policy has three phases to the review process, including the negotiation, mediation, and adjudication phases. The FAC initially raised concerns that two phases of informal resolution may not be appropriate, and requiring a grievant to go through negotiation and mediation prior to the formal adjudication process may not be appropriate. Through discussion with the Faculty Ombuds Officer, the FAC learned the first phase, referred to as negotiation in the procedures, is typically focused on consultation between the Faculty Ombuds Officer and the grievant. The first phase gives an opportunity for the Faculty Ombuds Officer to assist the grievant in shaping their complaint and determining whether it could fit within the grounds for a grievance in the policy. It also is an opportunity for the grievant to understand and fully consider their rights and responsibilities under the policy, so that they can make an informed decision on whether they wish to pursue resolution under the procedures. The FAC agreed this first phase is critical to the grievance process, and developed significant revisions to the policy to more accurately reflect the purpose of this first stage.

### Confidentiality and Necessary Communication

Concerns were raised regarding the lack of information in the policy on confidentiality and necessary communication between administrators and offices facilitating the grievance process. The FAC felt strongly that the grievance process should be a confidential process, to the extent possible, and developed language to be clear that all individuals involved in the process, from the parties and their witnesses to the administrators involved in the process, are to maintain confidentiality during the review process and after the process has concluded.

However, the committee found significant concerns with the lack of information in the policy regarding the ability of administrators and those who facilitate the grievance process to communicate. For instance, the policy does not specifically allow the Ombuds Officer to communicate with administrators in order to pursue resolution of the complaint in the informal stage of the process. The Faculty Ombuds Officer may be better able to facilitate mediation or negotiation if they are able to consult with other administrators, in order to fully understand what is at issue or where there may be flexibility to find compromise. Whenever possible, the Ombuds Officer will not disclose the identity of the grievant and will discuss the issue using a “need to know” standard. The policy also has no provisions to allow the Faculty Ombuds Officer to notify the Executive Secretary and Director that a grievance may be coming forward to the Senate, or to allow the Associate Provost for Faculty Affairs to be notified that a grievance is being reviewed. The FAC determined that the policy should indicate that the Ombuds Officer should be able to communicate with others as appropriate to resolving the complaint and in compliance with all University policies and laws.

### Development of the Grievance Hearing Board

The current policy establishes a complex and administratively burdensome process for constituting a Hearing Board. In the current policy, all current Faculty Senators form a Faculty Grievance Panel, from which a Chair is chosen. The Chair of the Faculty Grievance Panel facilitates formation of each Faculty Grievance Hearing Board from the membership of the Panel. Seven Faculty Senators are selected as potential members, and after an organizational meeting, two members are dismissed and two members are selected as alternatives. The FAC felt this process is too complex for a process that is used infrequently and only on an as-needed basis. The FAC developed a

streamlined process, eliminating the Faculty Grievance Panel and its Chair, and relying on the Senate Chair-Elect to facilitate formation of the Hearing Board while giving the parties an opportunity to identify potential conflicts of interest among the pool of Senators.

The FAC considered broadening eligibility for service on Hearing Boards, to allow faculty who are not Senators to serve. However, the FAC could not determine a solution that would allow broader participation while limiting the administrative burden in creating the Board. Relying on Faculty Senators to serve simplifies the process and allows for a more efficient process for forming the board, since there is a defined and limited list of eligible faculty. Faculty Senators represent all Colleges and units on campus, so the pool of eligible faculty is already diverse in terms of discipline, and it includes both tenured and tenure track (T/TT) and professional track (PTK) faculty. Also, since the formal adjudication process is administered by the Executive Secretary and Director of the Senate and as the Senate Executive Committee has a defined role in the policy, the FAC determined it would be appropriate for the Board's membership to remain within the Senate.

## **RECOMMENDATIONS**

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The Faculty Affairs Committee recommends that the University of Maryland, College Park Policies and Procedures Governing Faculty Grievances (II-4.00[A]) be amended as shown in the policy document immediately following this report.

## **APPENDICES**

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- Appendix 1 — Faculty Grievance Processes at Peer Institutions
- Appendix 2 — University of Maryland Adjudication Process Comparison
- Appendix 3 — Charge from the Senate Executive Committee

## II-4.00(A) UNIVERSITY OF MARYLAND POLICIES AND PROCEDURES GOVERNING FACULTY GRIEVANCES

Passed by the Campus Senate, April 23, 1990, and approved by the President, December 13, 1990. Amended March 4, 2002. This procedure replaces all faculty grievance procedures previously in effect at all administrative levels of the University of Maryland College Park.

### I. INTRODUCTION

#### A. Purpose

Legitimate problems, differences of opinion, conflicts, or complaints sometimes arise in the relationship between the University, as an employer, and its faculty. Both the faculty member with a grievance and the University benefit when the University responds to grievances promptly and fairly. This grievance procedure attempts to handle grievances as informally as possible and at a level in the University structure that is accessible to faculty members. The procedure also attempts to handle grievances in a timely, consistent, and simple manner. ~~A faculty member may file a grievance under this code or under the Code on Equity, Diversity, and Inclusion, but the same grievance cannot be filed under both codes.~~

#### B. Who May File a Grievance?

All persons with faculty status irrespective of their administrative duties or assignments at the time of the action or inaction prompting the grievance may use this grievance procedure. The faculty members covered by the Grievance Procedures are all those whose titles are in the University of Maryland Policy on Appointment, Promotion and Tenure Policy II-1.00(A) ~~part I and~~ **or** in the University System Policy II-1.00, whether that person is full-time or part-time, as long as the faculty appointment is the person's primary position at the University of Maryland.

Grievances by more than one faculty member may be put together in a single grievance if each faculty member signs the grievance and the material actions or inactions and issues are substantially the same for each.

#### C. What is a Grievance?

Faculty members may file a grievance under this procedure for ~~any action or inaction by an academic administrator that they believe is unfair, discriminatory, or improperly reached.~~ ~~Grievance~~ issues including ~~ing~~ but ~~are~~ not limited to academic freedom, salary, assignments, and the nature and conditions of a faculty member's work. Grievances cannot be filed against written campus and System policies, ~~per se~~. **Grounds for a grievance are limited to actions or inactions by an administrator or a faculty member that are believed to be:**

1. **Unfair, which shall mean arbitrary and capricious, lacking in justifiable cause or basis in official policy, inequitable with respect to treatment, or excessive in relation to what would be a reasonable and available alternative course of action;**
2. **Discriminatory, which shall mean that the action or inaction was made on the basis of a protected status (e.g., race, ethnicity, gender, age, religion, sexual orientation, etc.); or**
3. **Improperly reached, which shall mean the decision was reached either in violation of University policy or without the consultations or approvals**

required by departmental or college regulations prior to making such decisions.

#### D. Limitations

~~However, n~~No complaint shall be reviewed under these faculty grievance procedures if:

1. The complaint pertains to a subject that is reviewable under, or is specifically excluded from review by any other System or institutional policy, **such as policies on sexual misconduct, non-discrimination, and research misconduct**;
2. The complaint pertains to an official policy, regulation, or procedure of the System or the institution; a decision or action by the Board of Regents, the Chancellor, or the President; or any matter the remedy for which would contravene or interfere with any such official policy, regulation, procedure, decision, or action;
3. The complaint pertains to broad ~~areas of the~~ fiscal management, ~~staffing~~**organization**, or structure of the University **System** of Maryland ~~System~~ or constituent institutions; or
4. The ~~resolution of the~~ complaint **pertains to an issue or proposes a remedy that** is not under the control of the institution and/or of the University System.

**A faculty member may not use any other University grievance procedure simultaneously or successively with respect to the same or substantially similar issue or complaint, or with issues or complaints arising out of or pertaining to the same set of facts. In addition, no other University grievance procedure may be used to challenge the actions, determinations, or recommendations of any person(s) or board(s) acting pursuant to these procedures. A faculty member who elects to use this procedure for the resolution of a grievance agrees to abide by the final decision arrived thereunder, and shall not subject this decision to review under any other procedure within the University System of Maryland.**

**A grievant may choose to pursue resolution under this process and pursue resolution through civil or criminal means, at their own initiation and expense. Administrative processes are separate from and have different standards than legal processes. Legal processes and the University's internal administrative process will proceed separately and independently.**

#### ~~D~~E. The Faculty Ombuds Officer

~~There shall be created at the~~ University of Maryland ~~at College Park the position of~~ **shall have a** Faculty Ombuds Officer, **who serves as** a neutral and impartial officer to provide confidential and informal assistance to faculty and administrators in resolving concerns related to their work. Operating outside ordinary administrative structure, the Faculty Ombuds Officer shall serve as a counselor, fact-finder, mediator, and negotiator, but not as an advocate for any party to a dispute.

The Faculty Ombuds Officer shall serve all faculty and academic administrators. ~~He or she~~ **They** shall attempt to resolve disputes informally before they enter formal grievance channels, and shall advise those who seek information about what constitutes a grievance and what the grievance procedures are. The Officer shall have access to suitable legal counsel, **and should** prepare ~~an annual yearly~~ report; and offer recommendations for policy change to the ~~Campus~~ **University** Senate and the President.

The Faculty Ombuds Officer shall to the extent possible respect the confidentiality and privacy of faculty pursuing resolution under this grievance procedure. However, the Faculty Ombuds Officer may communicate with others on a need to know basis, as is appropriate to facilitate the grievance process or to attempt to address a complaint.

The Faculty Ombuds Officer shall be appointed by the President following a search conducted by a committee jointly appointed by the ~~Faculty Grievance Panel~~ **Senate Executive Committee of the University Senate** and the President. Removal shall be by mutual consent of the President and a majority of the elected faculty members of the **Senate** Executive Committee ~~of the Senate~~.

## II. PROCEDURES

### A. Definitions

A *grievance allegation* is a ~~preliminary~~ **preliminary** informal statement of a grievable issue presented to ~~the Faculty Ombuds Officer~~ **the Faculty Ombuds Officer** ~~a respondent~~. It is based on the same standards as a grievance complaint, but seeks a remedy through the process of private discussion and ~~negotiation~~ **consultation** rather than formal grievance.

A *grievance complaint* is a formal written statement of a grievable issue using a prescribed form available from the Faculty Ombuds Officer. **The grievance complaint should clearly articulate the grounds and scope of the grievance as well as the desired remedy.**

**A formal grievance is the formal written statement that is submitted to begin the adjudication process, after the mediation phase has concluded.**

A *grievant* is the faculty member or members initiating a grievance allegation or grievance complaint.

The *respondent* is the person or persons **whose actions or inactions are the focus of the grievance allegation or grievance complaint** ~~responsible for making the decision about which the grievant is complaining.~~

~~An academic administrator is a vice president, dean, department chair, or director of an academic unit or designee.~~

~~Unfair in Section I.C. shall mean arbitrary, capricious, vindictive, lacking in justifiable cause or basis in official policy, discriminatory with respect to treatment accorded to equals, or excessive in relation to what would be a reasonable and available alternative course of action.~~

~~Discriminatory in Section I.C. shall mean disparate treatment on the basis of unacceptable criteria (e.g., race, ethnicity, gender, age, religion, sexual preference, etc.).~~

~~Improperly reached in Section I.C. shall mean the decision was reached without the consultations required by departmental or college regulations prior to the making of such decisions, or unilaterally without approval of higher administrators where such approval is required.~~

A *mediation agreement* is a formal written statement agreed upon by both the grievant and respondent that serves to resolve a grievance **complaint**.

~~The Faculty Ombuds Officer has central management responsibility for mediation and for the administration of these procedures (Section I.D.).~~

~~The Faculty Grievance Panel is composed of all faculty members of the College Park Senate, excluding ex-officio members.~~

**Bad faith** means an allegation that is knowingly false and/or is made or done with a knowing or reckless disregard for information that would negate the allegation.

**Retaliation** means an adverse action taken against an individual who has submitted a grievance and/or participated in the grievance process in good faith, where there is a clear causal link between the grievance and an adverse action. In determining whether retaliation has occurred, the individual needs to provide documentation supporting a claim of retaliation; the other party needs to articulate a legitimate reason for the adverse action.

Days in the calendar of complaint procedures shall mean **business calendar** days. **The grievance procedure calendar** excludes Saturdays, Sundays, and days on which the **Campus University** is officially closed, and the time period from the end of the spring semester to the start of the following fall semester.

## **B. Information about Procedures**

The Faculty Ombuds Officer is responsible for providing information regarding the **negotiation preliminary consultation**, mediation, and adjudication procedures and their relation to other policies and procedures of the University. This officer shall explain, in response to inquiries by faculty members, the conditions for using the various steps of the grievance procedure.

The grievance **process consists of three phases. The Preliminary Consultation phase will normally proceed over a period of fifty (50) days. Once it has been determined that the consultation cannot achieve a satisfactory result through informal discussion, the grievant will have fifteen (15) days to file a grievance complaint to enter mediation. The Mediation phase will normally last up to twenty-five (25) days, though it can be extended with the consent of both parties. The Adjudication phase may proceed after mediation concludes, and will move forward as expeditiously as possible.** ~~procedure calendar allows seventy-five (75) days in which to pursue a negotiated settlement and an additional seventy-five (75) days within which to file a grievance complaint. The grievance procedure calendar excludes the period from June 1 to August 16 because of the possibility that one of the parties to a grievance may go away for the summer.~~

**Faculty are expected to begin the grievance process within seventy-five (75) days of a grievable action or inaction, or within seventy-five (75) days of first learning of the action or inaction, whichever is later. Such action or inaction may be the latest in a long standing pattern or practice, in which case the pattern may be considered as part the grievance.**

Grievants will not be reprimanded or discriminated against in any way for initiating an ~~inquiry,~~ **legitimate** allegation, or complaint. **University administrators and faculty shall not engage in or threaten retaliation. Complaints of retaliation should be referred to the appropriate administrator, who would normally be the supervisor of the individual alleged to be engaging in retaliation, for review and any appropriate disciplinary action. Grievants who bring forward allegations that are found to be in bad faith may be subject to appropriate disciplinary actions.**

**The process for addressing a grievance set forth in these procedures is confidential.** ~~The same confidentiality accorded to peer review processes should be observed in the grievance~~

~~procedure. A "need to know" standard should apply to the confidentiality accorded to grievance procedures and those involved in such procedures who have a legitimate interest in resolving the grievance. The parties, witnesses, members of committees involved in the process, advocates, and administrators who are informed of the grievance on a need to know basis, are expected to preserve confidentiality at all stages of the process, including preliminary consultation, mediation, and adjudication.~~

~~1. **Negotiation-Preliminary Consultation.** As a first step in seeking relief and before a grievance complaint is filed, the grievant has the option of attempting, either with or without the advice of the Faculty Ombuds Officer, to resolve the dispute through negotiation privately entered into with the respondent whose actions or inactions give rise to the allegation. If both parties agree, administrators higher in rank may be involved in the effort to resolve the dispute through informal discussion and negotiation. The negotiation preliminary consultation stage should normally proceed over a period not to exceed fifty (50 days), and is initiated by an informal grievance allegation brought to the Faculty Ombuds Officer. and may proceed over a period not to exceed seventy-five (75) academic calendar days after the action or inaction prompting the grievance occurs or after the faculty member first learns of such action or inaction, whichever is later. Such action or inaction may be the latest in a long standing pattern or practice, in which case the pattern may be considered as part of the evidence of the grievance. During this stage, the Faculty Ombuds Officer reviews the allegation with the grievant and the respondent, provides information and resources to the grievant, clarifies with the grievant the nature of the complaint, and counsels the grievant on their options for resolving the grievance as well as the process for engaging in mediation and adjudication should their allegation rise to the level of a formal complaint. In some cases, the grievant may have attempted to resolve the dispute privately prior to consulting with the Faculty Ombuds Officer, but such private attempts are not required in order to engage the assistance of the Faculty Ombuds Officer.~~

~~If through preliminary consultation with the parties, the grievance-in-negotiation allegation is settled to the satisfaction of all parties, no formal record need be filed with the Faculty Ombuds Officer, but a written record of such agreement may be so filed at the request of the grievant. If the grievance-in-negotiation allegation is not so settled through preliminary consultation, and the grievant wishes to proceed to mediation, he or she the grievant must file a grievance complaint with the Faculty Ombuds Officer before the timeframe for preliminary consultation ends in order to proceed to mediation. within seventy-five (75) days from the commencement of the grievance negotiation, and in any case not more than one hundred and fifty (150) days from the action or inaction that prompted the grievance, or one hundred and fifty (150) days after the faculty member first learns of such action or inaction, whichever is later.~~

~~The grievant is not required to attempt negotiation if he or she believes that it would prove fruitless. Thus the grievant may proceed directly to mediation, a step that must be taken within one hundred and fifty (150) days of the action or inaction prompting the grievance, or one hundred and fifty (150) days after the faculty member first learns of such action or inaction, whichever is later.~~

~~It is the responsibility of the Faculty Ombuds Officer to determine the essential nature of the dispute so that it can be resolved; the essential nature of the dispute may in fact differ from that described in the allegation. Following counsel with the Faculty Ombuds Officer, the grievant's allegation should be revised as appropriate during the development of the grievance complaint.~~

**2. Mediation.** Mediation begins when the grievant files the written grievance complaint with the Faculty Ombuds Officer. ~~The complaint need not conform to any precise pleading requirements but should express in factual terms what the basis of the grievance is and what the faculty member is unhappy about. It is the responsibility of the Faculty Ombuds Officer, as a mediator, to determine what the nature of the dispute is so that it can be resolved; the true nature of the dispute may in fact differ from that described in the complaint. Following counsel with the Faculty Ombuds Officer, the complaint may be revised. The complaint should follow a prescribed form.~~ The complaint shall contain ~~at a minimum~~ a **clear and** concise statement of the action(s) or inaction(s) giving rise to the grievance, including the date of the action(s) or inaction(s) and the name(s) of the respondent(s) responsible. Also, the complaint should specify the adverse effect that the action(s) or inaction(s) has had or may have on the faculty member, and the remedy sought. The complaint **should include the grievant's contact information.** ~~must state the grievant's address and telephone number at which he or she may be reached and the name of any legal representative, with address and telephone information. If the grievant's representative files the complaint, then it must be signed by the grievant.~~

~~The Faculty Ombuds Officer shall mediate the dispute by working with the parties to seek a solution satisfactory to both.~~

From the time that the ~~formal~~ grievance complaint is filed, the Faculty Ombuds Officer shall have twenty-five (25) days in which to conduct mediation. **If needed and by mutual consent of the parties,** ~~the~~ Faculty Ombuds Officer may take ~~an~~ additional **time fifteen (15) days** for mediation. ~~provided the grievant is notified of the need for such extension of time. By mutual consent, the parties may extend the mediation period for a reasonable time. The Faculty Ombuds Officer shall mediate the dispute by working with the parties to seek a solution satisfactory to both. All parties are expected to make good faith efforts at mediation. If mediation fails to produce a satisfactory solution, mediation may end unless both parties agree to continue.~~

If mediation results in a resolution of the conflict, a confidential written report and mediation agreement shall be forwarded to all parties to the dispute. The original copy of the report shall be retained by the Faculty Ombuds Officer.

The grievant may withdraw from **the grievance process at any point** ~~mediation~~ by giving the Faculty Ombuds Officer ~~signed appropriate written~~ notice. If the grievant withdraws from **the grievance process prior to the end of** mediation, the grievant ~~normally~~ may not proceed to adjudication.

~~If the mediation fails to produce a satisfactory solution, the grievant may submit the dispute to adjudication.~~ If, at any time during the mediation period, the Faculty Ombuds Officer believes the parties cannot reach agreement, **or if the mediation fails to produce a satisfactory solution after the initial mediation period of twenty-five (25) days and any additional time agreed to by both parties,** ~~the parties shall be so informed and~~ the mediation effort shall cease **and the grievant may submit the dispute to adjudication.** ~~, unless the parties agree to the contrary.~~

~~If, because of the cessation of mediation or because of its failure to resolve the conflict, the grievant is unsatisfied and has neither signed a mediation agreement nor has withdrawn from mediation during the time allowed, the grievant is eligible to proceed to adjudication.~~

**3. Adjudication:** Upon **receipt of** notice to the grievant by the Faculty Ombuds Officer of failure of the mediation process, the grievant shall have ~~ten~~ **fifteen (15)** days ~~after receipt of such notice~~ to **revise the grievance complaint and** submit the formal **grievance complaint filed earlier in the mediation process** to the Executive Secretary **and Director** of the **Campus University** Senate for adjudication. Within five days **(5)** of the receipt of ~~such a request~~ **the formal grievance**, the Executive Secretary **and Director** shall inform the respondent(s), **the Associate Provost for Faculty Affairs, and the Faculty Ombuds Officer** of the grievant's action and request ~~that of~~ the Faculty Ombuds Officer **provide** a summary statement of the mediation effort **and an assessment of whether the allegations within the grievance are within the jurisdiction of the grievance policy.** The Faculty Ombuds Officer shall submit the assessment within **ten (10) days of the Executive Secretary and Director's request.**

**a. Administration:**

The Office of the Executive Secretary **and Director** of the Senate shall be assigned responsibility for keeping a record of **the** grievance ~~actions~~, initial notification of persons involved, and monitoring compliance with procedures. The Executive Secretary **and Director** of the Senate shall serve as ~~secretary the~~ **coordinator** of **and advisor to** the Faculty **Hearing Board** ~~Grievance Panel~~. **A confidential complete record shall be kept by the Executive Secretary and Director of all hearings and documents referenced during the adjudication process for three (3) years following the end of the grievance process.**

**b. Forming The Faculty Grievance ~~Panel~~ Hearing Board**

**All elected Faculty Senators are eligible to serve on the Faculty Grievance Hearing Board. Hearing Boards should include a diverse group of tenured and tenure-track (T/TT) and professional track (PTK) faculty, whenever possible and as appropriate to the case. The Senate Chair-Elect is responsible for facilitating the formation of the Hearing Board.**

~~The Faculty Grievance Panel from which the faculty hearing board is chosen will be composed of all faculty members, excluding ex-officio members, currently serving on the College Park Campus Senate.~~

~~The elected faculty members of the Senate Executive Committee shall select a Panel Chair who shall take office at the beginning of the academic year and shall serve for one year. In a case in which the Chair of the Faculty Grievance Panel is perceived to have a conflict of interest in the grievance, the grievant may petition the Senate Executive Committee to appoint the Faculty Grievance Hearing Board.~~

~~c. Faculty Grievance Hearing Board~~

~~For each grievance sent forward for hearing, the Chair of the Panel shall select seven members for potential service on the faculty Grievance Hearing Board, being careful to exclude persons with an apparent conflict of interest.~~

~~The Chair of the Panel shall convene the seven potential members of the Hearing Board within five days of their having been selected, as well as the faculty member bringing the grievance and the respondent, to hear challenges, organize the Board, and set the hearing schedule.~~

~~Each party to the grievance may challenge the service of one potential member of the Hearing Board.~~

**Within fifteen (15) days of submission of the formal grievance, the Executive Secretary and Director shall send the list of elected Faculty Senators to the parties for review. The parties will have five (5) days to notify the Executive Secretary and Director of any elected Faculty Senators who may have a conflict of interest and should be ineligible to serve on the Hearing Board. The Executive Secretary and Director will promptly communicate any conflicts to the Chair-Elect.**

~~Following the initial meeting of potential members of the Hearing Board (3.4.1.2.), the~~ **The Chair-Elect of the Panel shall then within five days** appoint three voting members of the Hearing Board and two alternate members from the unchallenged potential members.

The five members of the Faculty Grievance Hearing Board (three voting and two alternates) shall elect, by majority vote, one voting member to chair the Hearing Board. If a voting member cannot serve to completion of the grievance hearing, an alternate shall then be appointed as a voting member by the Chair of the Hearing Board. **If an alternate member cannot serve to completion of the grievance hearing, the Hearing Board may proceed with one alternate.**

#### **dc. Faculty Grievance Hearing Board Procedures**

**A The** Faculty Grievance Hearing Board ~~convened pursuant to a faculty member's request~~ shall hear all arguments on substantive and procedural matters and shall make necessary written findings.

The ~~faculty member grievant~~ shall be responsible for demonstrating the merits of ~~his or her~~ **the** grievance. ~~He or she~~ **They** must demonstrate ~~by evidence~~ that the action or inaction ~~complained of~~ occurred; **and** that the action or inaction adversely affects ~~him or her~~ **them**; ~~and that a remedy is reasonable and proper.~~ The ~~faculty member grievant~~ shall have the right to ~~examine~~ **review** and use any legally available part of ~~his or her~~ **their** personnel files.

**The Executive Secretary and Director shall establish a schedule of hearings for the Hearing Board that will allow the body to complete its work as expeditiously as possible. ~~Before proceeding to the hearing itself, t~~The Hearing Board should first convene its members to review the formal grievance as well as the summary statement of mediation efforts and assessment of grievance grounds. The Hearing Board may decide to dismiss the case if all three voting members agree that the dispute is frivolous, ~~or~~ without merit, **submitted in bad faith**, or insufficiently related to the concerns of the academic community. **If the case is dismissed, the Executive Secretary and Director will notify the parties, the Faculty Ombuds Officer, and the Associate Provost for Faculty Affairs. If the case is not dismissed, the grievance will proceed.****

Both parties ~~to the grievance have the right to peer or legal counsel.~~ may choose to be assisted during the adjudication process by an advocate of their choice, who may be peer counsel or an attorney, at their own initiation

and expense. The advocate may provide advice and consultation to the party. If necessary, a party may request a recess during hearings in order to speak privately with an advocate. The advocate may not be an active participant; the advocate may not speak for the parties in person or in writing, serve as a witness, provide information or documentation in the case, cause delay, communicate with the Chair or Executive Secretary and Director on behalf of the party, or otherwise interfere with the process.

~~The Hearing Board~~ At any step of the grievance procedure, **the Hearing Board** may request advice of ~~legal counsel~~ **the Office of General Counsel** on **procedural concerns** or significant legal issues raised in the grievance. A legal officer who has provided legal advice or service to the respondent may not provide legal advice or service to the Hearing Board.

~~Hearings shall be open unless one or both parties request that they be closed.~~

~~A complete record shall be kept of all proceedings and documents entered as evidence.~~

At any point, the respondent may request that the Hearing Board dismiss the case based on issues related to the grievability of the action or inaction involved. The Hearing Board will review the request and can dismiss the case if all three voting members agree. If the case is dismissed, the Executive Secretary and Director will notify the parties, the Faculty Ombuds Officer, and the Associate Provost for Faculty Affairs. If the case is not dismissed, the grievance will proceed.

~~The formal rules of evidence shall not apply to this grievance procedure. Each party or his or her counsel will have an opportunity to make an opening and closing statement, present written evidence, examine and cross-examine witnesses, offer personal testimony, and file objections, exceptions, motions, and post-hearing briefs. Motions raising the issues of standing or grievability may be raised at any time in the proceedings. If such a motion is upheld, the grievance shall be dismissed.~~

~~Motions raising the issue of timeliness must be made at the first stage of the proceedings following the time at which the moving party knew or reasonably could have known of the grounds for making the motion, or the issue shall be waived. If it is determined, following the raising of the issue of timeliness, that the requirements of timeliness are not met, the grievance shall be dismissed. In the case of lack of timeliness as to time limits other than those for the initial filing of the grievance and any appeals, the grievance may be dismissed at the discretion of the hearing authority if the untimeliness results in undue delay or prejudice to the other party.~~

~~The faculty member shall first present his or her case; the respondent will then present his or her response.~~

The Chair of the Faculty Grievance Hearing Board shall **be responsible for overseeing and facilitating the hearings** ~~make rulings on all questions concerning the course of the proceedings and the presentation of the evidence~~ and may order the proceedings in such manner as ~~he or she~~ **they** deems appropriate. **Hearings shall be closed. The Chair shall make determinations**

**on all questions concerning the course of the proceedings.** The Chair, ~~at his or her~~ **has the** discretion, ~~may to~~ set time limits for **statements, presentation of testimony, or other aspects of the hearings** and exclude redundant or irrelevant evidence **including witness testimony**.

**During the hearings, each party will have an opportunity to make an opening and closing statement. The grievant shall first make a brief opening statement outlining the grounds for the grievance as indicated in the formal grievance; the respondent will then make a brief opening statement in response. Each party will be given an opportunity to share information or documentation to support their case, and all documentation shall be shared with the other party.**

**Both parties have the right to call witnesses in pursuance of their cases. If the parties intend to call witnesses, they are expected to submit their names and relevance to the case in advance of the hearing. The Faculty Ombuds Officer cannot be called as a witness. The Hearing Board can neither compel witnesses to participate nor assure the presence of witnesses requested by either party.**

Members of the Hearing Board may **ask** questions **of** the grievant, respondent, and their witnesses. The Board may call witnesses **when relevant to the issues in the case** ~~as it deems necessary, but their testimony must be a part of the official hearing record.~~

~~Only evidence made part of the official hearing record shall be considered in the determination of the case.~~

~~The evidence used by the respondent must be available, in its entirety, to the grievant.~~

~~Both parties have the right to call witnesses, including members of the Campus staff, in pursuance of their cases. The Faculty Ombuds Officer cannot be called as a witness. The Hearing Board cannot assure the presence of witnesses requested by either party. However, either party may request in writing that the Hearing Board contact a witness or witnesses to request their appearance at the hearing; the Hearing Board may contact such witness or witnesses if in its judgment the request is reasonable and the testimony to be given by the witness or witnesses is demonstrably relevant to the issues raised by the grievance.~~

#### **ed. Findings of the Grievance Hearing Board**

**Only information discussed during the hearings that is determined by the Board to be relevant to the case shall be considered in the determination of the case. After review of the relevant information, the Hearing Board shall make a determination on its findings and recommendations based upon the by a majority vote of a majority of the voting members. The Hearing Board's findings should include an assessment of whether the grievance has merit and whether the action or inaction that formed the basis of the grievance was justifiable.**

The Board shall prepare a written report of its findings, including the reasons for the findings, ~~its recommendations,~~ and any dissent. The report ~~of the~~

~~recommendation~~ shall be forwarded to the President **within ten (10) days after the conclusion of the hearing. Confidential** with copies of the report shall be sent to the grievant and to the respondent, **as well as to the Associate Provost for Faculty Affairs and the Faculty Ombuds Officer.** ~~whose actions or inactions form the basis of the grievance. The report shall be sent within ten days after the conclusion of the hearing.~~ **Adjudication of a faculty grievance is a confidential process. All parties are expected to maintain the confidentiality of the process, proceedings, and documentation except as otherwise compelled by law.**

#### **e. Resolution**

Within thirty (30) days, the President shall ~~report~~ **make a final determination** in writing **on the decision in the matter, and what remedy, if any, will be implemented.** The President will normally consult with academic administrators in determining appropriate remedies. **It is expected that the President will give great weight to the findings of the Hearing Board. However, if the findings of the Hearing Board are not accepted, in whole or in part, an explanation of this decision should be provided. Notification will be sent** to both parties to the grievance, to the Chair of the Hearing Board, and to the **Hearing Board Panel, as well as to the Executive Secretary and Director, the Associate Provost for Faculty Affairs and the Faculty Ombuds Officer.** ~~his or her decision in the matter, and what action, if any, will be taken. It is expected that the President will give great weight to the recommendations of the Hearing Board. However, if the recommendations are not implemented, an explanation of this decision should be provided to all of the aforementioned parties.~~

The decision of the President shall be final.

Should the President decide that the grievance is justified and a remedy ~~is to~~ **should be implemented awarded,** the grievant shall, before receiving any such remedy, ~~execute~~ **enter into** a written agreement recognizing the remedy to be satisfactory and waiving any claims to causes of action arising out of the grievance.

Appendix 1 -- Faculty Grievance Processes at Peer Institutions

	<b>Informal Process Required?</b>	<b>Hearing Board Size</b>	<b>Hearing Board Membership</b>	<b>Challenges to Board Membership?</b>	<b>Role of legal counsel</b>	<b>Links &amp; Info</b>
<b>University of Iowa</b>	No (expected to participate in informal)	3	Senate membership not required; essentially any faculty that isn't an administrator may serve	no	Yes, can represent	<a href="https://opsmanual.uiowa.edu/human-resources/faculty-dispute-procedures">https://opsmanual.uiowa.edu/human-resources/faculty-dispute-procedures</a>
<b>Indiana University</b>	No	7	Senate membership not required; majority must be tenured faculty	no	Yes, can represent	<a href="http://vpfaa.indiana.edu/policies/bloomington/governance-review/grievance-review-faculty.shtml">http://vpfaa.indiana.edu/policies/bloomington/governance-review/grievance-review-faculty.shtml</a>
<b>University of Illinois-Urbana Champaign</b>	No (prefers participation in informal)	9	Senate membership not required; must be tenured and not administrator to serve	no	Not addressed	<a href="http://www.fac.illinois.edu/articlesofprocedure/10artproc.pdf">http://www.fac.illinois.edu/articlesofprocedure/10artproc.pdf</a> <a href="http://www.fac.illinois.edu/">http://www.fac.illinois.edu/</a>
<b>University of Michigan</b>	No (encouraged to participate in informal)	3	Senate membership not required; must be tenured to serve	yes	Yes, but may not participate	<a href="https://www.provost.umich.edu/faculty/fac_grievance_proc_sept_2010.pdf">https://www.provost.umich.edu/faculty/fac_grievance_proc_sept_2010.pdf</a> <a href="https://facultysenate.umich.edu/faculty-grievances-procedure/">https://facultysenate.umich.edu/faculty-grievances-procedure/</a> Each College has its own procedures. <a href="https://hr.umich.edu/working-u-m/my-employment/academic-human-resources/faculty-grievance-procedures">https://hr.umich.edu/working-u-m/my-employment/academic-human-resources/faculty-grievance-procedures</a>
<b>Michigan State University</b>	Yes	5	Senate membership not required; T/TT & PTK; only tenured faculty on tenure/reappointment grievances	yes	Yes, can ask questions	<a href="https://fgo.msu.edu/">https://fgo.msu.edu/</a> policy office; policy: <a href="https://hr.msu.edu/policies-procedures/faculty-academic-staff/faculty-handbook/grievance_policy.html">https://hr.msu.edu/policies-procedures/faculty-academic-staff/faculty-handbook/grievance_policy.html</a>
<b>University of Minnesota</b>	Yes	3	Senate membership not required; can include staff, as well	yes (can reject hearing officer once, allowed to pick panelists)	yes, can represent (if petitioner has attorney, U provides respondent one)	<a href="https://policy.umn.edu/hr/conflictresolution">https://policy.umn.edu/hr/conflictresolution</a> ; <a href="https://policy.umn.edu/hr/conflictresolution-proc01">https://policy.umn.edu/hr/conflictresolution-proc01</a>
<b>University of Nebraska</b>	No	6	Senate membership not required; must be tenured (or equivalent) and not administrator to serve	no	Not addressed	<a href="https://www.unl.edu/facultysenate/committees/ARRCprocedures.pdf">https://www.unl.edu/facultysenate/committees/ARRCprocedures.pdf</a> <a href="https://www.unl.edu/facultysenate/committees/ARRCpage.html">https://www.unl.edu/facultysenate/committees/ARRCpage.html</a>
<b>Northwestern University</b>	No (should participate in informal)	5	Senate membership REQUIRED; no T/TT requirement	yes	Yes, but to advise only	<a href="http://www.northwestern.edu/provost/faculty-resources/shared-governance/faculty-handbook.html">http://www.northwestern.edu/provost/faculty-resources/shared-governance/faculty-handbook.html</a>

<b>Ohio State University</b>	No	3, 7 (for certain cases)	Fac Hearing Committee: Senate membership not required; must be tenured to serve Academic Freedom & Responsibility: 6 "tenure-track" and 1 PTK, 4 must be Senators	yes	Yes, but to advise only	<a href="http://ombudsman.osu.edu/">http://ombudsman.osu.edu/</a> <a href="https://senate.osu.edu/3335-5-48-9-committee-on-academic-freedom-and-responsibility/">https://senate.osu.edu/3335-5-48-9-committee-on-academic-freedom-and-responsibility/</a> <a href="https://senate.osu.edu/faculty-hearing-committee-rules/">https://senate.osu.edu/faculty-hearing-committee-rules/</a> <a href="https://trustees.osu.edu/rules/university-rules/chapter-3335-5-faculty-governance-and-committees.html">https://trustees.osu.edu/rules/university-rules/chapter-3335-5-faculty-governance-and-committees.html</a>
<b>Penn State University</b>	No	3	Senate membership not required; faculty and 1 dean	yes	Yes, but to advise only	<a href="https://policy.psu.edu/policies/ac76">https://policy.psu.edu/policies/ac76</a>
<b>Purdue University</b>	Yes	3	Senate membership not required; T/TT & PTK included	yes (can exclude potential members)	Not allowed	<a href="http://www.purdue.edu/policies/academic-research-affairs/ib1.html">http://www.purdue.edu/policies/academic-research-affairs/ib1.html</a> <a href="http://www.purdue.edu/provost/documents/informal-grievance-status-report-form.pdf">www.purdue.edu/provost/documents/informal-grievance-status-report-form.pdf</a>
<b>University of Wisconsin</b>	No (no official "informal" process)	3-5	Senate membership REQUIRED; must be tenured	no	n/a	<a href="https://secfac.wisc.edu/governance/faculty-legislation/fpp_ch_8/#8.15">https://secfac.wisc.edu/governance/faculty-legislation/fpp_ch_8/#8.15</a> <a href="https://kb.wisc.edu/ohr/policies/page.php?id=53384">https://kb.wisc.edu/ohr/policies/page.php?id=53384</a> Faculty Policies & Procedures: <a href="https://secfac.wiscweb.wisc.edu/wp-content/uploads/sites/50/2017/12/FACULTY-POLICIES-AND-PROCEDURES_2017_December.pdf">https://secfac.wiscweb.wisc.edu/wp-content/uploads/sites/50/2017/12/FACULTY-POLICIES-AND-PROCEDURES_2017_December.pdf</a> <a href="https://docs.legis.wisconsin.gov/code/admin_code/uws/6">https://docs.legis.wisconsin.gov/code/admin_code/uws/6</a>
<b>UC - Berkeley</b>	No (expected to participate in informal)	3	2 members of boards must be part of Senate committee; All faculty are Senators	no	Yes, can represent	<a href="https://academic-senate.berkeley.edu/bylaws/24-pt">https://academic-senate.berkeley.edu/bylaws/24-pt</a> <a href="http://senate.universityofcalifornia.edu/bylaws-regulations/bylaws/blpart3.html#bl334">http://senate.universityofcalifornia.edu/bylaws-regulations/bylaws/blpart3.html#bl334</a>
<b>University of North Carolina-Chapel Hill</b>	Yes	12	Senate membership not required; T/TT & PTK included	yes	Yes, but to advise only	<a href="https://facultygov.unc.edu/faculty-code/article-4/#4-8">https://facultygov.unc.edu/faculty-code/article-4/#4-8</a> <a href="https://facultygov.unc.edu/procedures-for-the-faculty-grievance-committee/">https://facultygov.unc.edu/procedures-for-the-faculty-grievance-committee/</a> <a href="http://www.northcarolina.edu/apps/policy/index.php?pg=dl&amp;id=4436&amp;format=pdf&amp;inline=1">http://www.northcarolina.edu/apps/policy/index.php?pg=dl&amp;id=4436&amp;format=pdf&amp;inline=1</a>

## Appendix 2 -- University of Maryland Adjudication Process Comparison

	<b>Faculty Grievance Policy</b>	<b>Sexual Misconduct (Faculty Procedures)</b>	<b>Interim Research Misconduct Policy</b>	<b>Parallel to Student Processes</b>
<b>Hearing board composition</b>	Faculty Grievance Panel made up of all Faculty Senators, Panel Chair is elected by the elected faculty members of the SEC. Panel Chair will select 7 members for service on Grievance Hearing Board. 3 voting members and 2 alternate members will be selected from these 7 members.	Standing Review Committee (reviews the finding of the investigator and approves or rejects it) - 3 members, with at least one member from the constituency of each party (at least 1 faculty). SRCs composed of members who have been trained to review such cases.	Inquiry Committee - composed of at least 3 people, appointed by Research Integrity Officer to conduct an Inquiry.  Investigation Committee - composed of at least 3 people, appointed by Provost to conduct an Investigation.  Both will typically be composed of faculty, but may include other persons with expertise.	
<b>Process for challenging board members</b>	Panel Chair convenes a meeting of the 7 members, the respondent, the grievant. Senate Director & any legal counsel are included at the meeting. At the meeting, each party to the grievance may challenge the service of one potential member.	SRC members are obligated to disclose to the OCRSM any known conflicts prior to participating in any specific SRC review. Conflicts or familiarity with the parties will automatically disqualify an individual SRC member from participating.	Both the Respondent and the Complainant may challenge a committee member, but only on the basis of asserted Conflict of Interest. A Respondent or Complainant who wishes to file an objection must do so in writing, with accompanying rationale, within five (5) days of receiving notice. The objection shall be submitted to the RIO. The RIO must respond to the challenge in writing within five (5) days, either accepting it and taking appropriate action, or rejecting it for stated cause.	
<b>Role of legal counsel</b>	Both parties may have peer or legal counsel. The Hearing Board may also ask for legal counsel from OGC. In practice, legal counsel is allowed to participate in proceedings on behalf of the party.	Each party may be assisted by an attorney (called an Advisor). The attorney may not participate, cannot be a witness, cannot provide evidence. Each party must speak for themselves. A party may call a recess to speak privately with the attorney. The attorney may not delay or otherwise interfere with the University's process.	The parties have the right to be advised by Counsel in all Misconduct Proceedings - advised by counsel but they are not active in the process. they can advise the party outside of the regular proceedings.  The Office of the General Counsel provides legal advice when needed to the RIO, the Responsible Administrator, the Inquiry Committee, the Investigation Committee, an Appeals Committee, and the Provost.	The role of attorneys in student procedures has been closely reviewed lately. The Student Conduct Committee is proposing a change to the Code of Student Conduct to ensure that the role of attorneys is limited and is consistent across all conduct-related processes. The Code of Academic Integrity and the Sexual Misconduct Policy ensure a limited role for attorneys, where they can advise their client but cannot speak for their client during university procedures. The student can ask for a recess to speak with their attorney and the attorney can be present.
<b>Confidentiality</b>	The same confidentiality accorded to peer review processes should be observed in the grievance procedure. A "need to know" standard should apply to the confidentiality accorded to the grievance procedures and those involved in such procedures who have a legitimate interest in resolving the grievance.	No clear statement on expectations for SRC members to keep deliberations confidential.	To the extent possible consistent with a fair and thorough review of an Allegation, disclosure of an Allegation and the resulting Misconduct Proceedings should be limited to those who need to know about them. Members of committees involved in the process and all administrators involved in the process shall make diligent efforts to preserve confidentiality.	
<b>Communication between Offices</b>	No discussion of how Ombuds, OFA, Senate Director, and other key offices might communicate when needed to provide context in the process.	Offices with formal roles in the process or who are notified during the process: OCRSM, Provost's Office, the Office of Faculty Affairs, department/unit head and/or Dean's Office. Notification occurs after the SRC stage, once a finding has been reached. However, there are also provisions to allow flexibility to contact Office of Faculty Affairs and/or other offices/administrators upon receipt of a report, in order to assess risk of harm and facilitate Interim Protective Measures.	Offices with formal roles in the process or who are notified during the process: Research Integrity Officer, Provost, Office of General Counsel. However, there are also provisions that allow flexibility for additional contact/notification in defined cases where immediate action is necessary.	

<b>Remedies &amp; Sanctions</b>	The policy is unclear on what types of remedies and sanctions can be given as a result of this process (in the recommendations from the Hearing Board or decision by the President).	Remedies may include: workplace modifications and other administrative changes, no-contact orders, denials of access (to campus or a location), schedule changes, counseling, and/or referral to outside agencies.  Disciplinary action can range from written reprimand up to and including termination of employment. Other administrative or non-disciplinary measures may also be imposed (change in duties or work locations, no-contact orders).	Sanctions can include disciplinary action at the University, degree revocation, sanctions from federal funding sources.	
<b>Connection to other policies/processes</b>	No discussion of whether review by this policy means can't ask for review in other policies/places.	Policy notes that the SM policy supersedes the Non-Discrimination Policy and all sexual misconduct issues will be adjudicated under this policy. The policy also prohibits any retaliation because an individual has filed a report or asked for an investigation - retaliation claims would be pursued by OCRSM as well.	Review of an Allegation under these Procedures shall precede all other internal University proceedings against a Respondent that relate to or arise out of the alleged Misconduct, including, without being limited to, disciplinary, antidiscrimination, and grievance proceedings.	Undergraduate Grievance Procedure has section on limitations that clarifies that no other University grievance procedure may be used simultaneously or consecutively with this procedure with respect to the same or substantially same issue or complaint, or with issues or complaints arising out of or pertaining to the same set of facts. Also, no other University grievance procedure may be utilized to challenge the actions, determinations, or recommendations of any person(s) or board(s) acting pursuant to these procedures. The policy also states "Any student who elects to use this Policy agrees to abide by the final disposition arrived thereunder, and shall not subject this disposition to review under any other procedure within the University System of Maryland."
<b>Appeal rights</b>	The process does not provide for an appeal route.	Appeals of the finding after the investigation are heard by an SRC Appellate Body consisting of 3 members, with at least 1 faculty member. Grounds limited to: substantial procedural error, new evidence.	Appeals of the finding are heard by the Provost, who may appoint a faculty member or administrator to review the record and make a recommendation to the Provost. Additional information can be sought during the appeal consideration. In addition, there is a process for bringing to light new evidence after the process has concluded.	
<b>Connection to civil/criminal processes</b>	The policy does not discuss connection to civil or criminal processes.	Civil or Criminal suits: Administrative process is separate from and has different standards than legal processes. Complaints of Sexual Misconduct and related internal University processes may occur prior to, concurrent with, or following criminal proceedings off campus.	In general, University review of an Allegation under these Procedures may occur in parallel with criminal processes. If an Allegation is also the subject of a criminal investigation or proceeding and the pertinent governmental authority advises the University that the University's review of the Allegation under these Procedures may prejudice or interfere with that investigation or proceeding, the Provost shall have authority to stay any Misconduct Proceeding until the criminal investigation or proceeding is complete.	



**Review of the University of Maryland College Park Policies and Procedures  
Governing Faculty Grievances  
(Senate Document #17-18-13)  
Faculty Affairs Committee | Chair: Patricio Korzeniewicz**

The Senate Executive Committee (SEC) and Senate Chair Falvey request that the Faculty Affairs Committee review the [University of Maryland, College Park Policies and Procedures Governing Faculty Grievances \(II-4.00\[A\]\)](#).

Specifically, we ask that you:

1. Consult with a representative of the Office of Faculty Affairs.
2. Consult with the Faculty Ombudsperson to better understand the Ombudsperson's role in the adjudication process.
3. Consult with the Executive Secretary & Director of the University Senate.
4. Review similar faculty grievance policies and procedures at Big Ten and other peer institutions.
5. Review the adjudication process outlined in the UMD faculty grievance procedures.
6. Review similar adjudication processes in other university policies (i.e. research misconduct and Title IX).
7. Consider whether the university's adjudication processes should address the following:
  - Restrictions on the type of remedies that are permissible within the grievance process;
  - The timeline for the adjudication process including the various procedural elements involved;
  - The role of legal representation for the parties involved in the grievance process and the faculty hearing board;
  - Limitations on the consideration of the same grievance through multiple university processes;
  - The role of the Ombudsperson in the mediation and grievance procedures;
  - Requirements for confidentiality of the proceedings and findings of a grievance process;
  - Administrative sharing of grievance information between University offices;
8. Consider whether the University's policy should be revised.
9. Consult with the University's Office of General Counsel on any proposed recommendations.

We ask that you submit a report to the Senate Office no later than **March 30, 2018**. If you have questions or need assistance, please contact Reka Montfort in the Senate Office at 301-405-5804 or [reka@umd.edu](mailto:reka@umd.edu).