

Faculty and Staff Grievance Procedures

(Excerpt from Personnel Policies and Procedures Manual)

4.3 Faculty and Staff Grievance Procedures

Approved by: Stetson University Board of Trustees, May 4, 2001

Administrative Edit by President's Staff, August 6, 2001

Administrative Edit by President's Staff, August 12, 2002

Administrative Edit, January 19, 2012

DELAND CAMPUS

4.3.1 I. General Policy Statement

Stetson University is committed to the prompt and fair resolution of the concerns of students, faculty and staff. The grievance process described below has been formulated to ensure fairness and consistency in the University's relations with its faculty, staff and students. A separate policy contained within the Student Code of Conduct sets forth procedures for handling charges of misconduct brought by faculty, staff or students, against any student. This Faculty and Staff Grievance Procedure describes the University policy for resolving complaints against faculty and staff, as well as faculty or staff complaints against the University. No person's employment with the University shall be adversely affected in any way as a result of using these procedures, nor shall any retaliatory action taken against a person using these procedures be tolerated.

The purpose of the grievance procedures is to ensure that complaints are resolved internally within the University community in a fair manner. In addition, the procedures in this policy suggest that an immediate attempt takes place to resolve informally all types of grievances at the level at which they occur.

4.3.2 II. Pre-Grievance Informal Resolution

The University will make a good faith effort to seek resolution of a problem informally brought to its attention through discussion and communication with the department or unit involved and with appropriate University officials. The University encourages all faculty, staff and students to attempt an informal resolution prior to initiating the formal grievance procedure.

Faculty, staff and students are encouraged to first meet with their supervisor, Department chair or appropriate University administrator, for an informal discussion of the matter. This discussion should take place within 30 calendar days of the matter's occurrence. (Important Note: All deadlines within this procedure are calculated as calendar days when school is in session. The time periods may be temporarily suspended during the time school is not in session and during summer session.) Both parties should meet jointly and/or individually with the appropriate administrator in a good faith attempt to resolve the matter in an equitable and professional manner.

4.3.3 III. Complaint and Fact Finding Process

Should a situation arise in which a dispute is not resolved by less formal means, the aggrieved individual may use the University's Complaint and Fact Finding process as follows:

4.3.3.1 A. Filing a Written Complaint

Faculty, staff or students bringing complaints against the University or a particular faculty or staff member should initiate a formal written complaint within 45 calendar days of the date on which the aggrieved person became aware of the subject of the complaint or within 45 calendar days of the complainant's receipt of the administrative summary provided at the conclusion of the informal process (see Section II above). The complaint should be filed with either the University Grievance Officer or the Director of Human Resources.

The written complaint should include:

1. Identification of the University office or individual against whom the complaint is brought;
2. A description of the specific behavior or action giving rise to the complaint;
3. The date or period of time during which the behavior occurred and location of the incident;
4. A description of the steps taken for informal resolution (if any) and the reasons they were unsuccessful;
5. The desired remedy;
6. The name, address, and telephone number of the person making the complaint; and
7. The signature of the person making the complaint.

4.3.3.2 B. Investigation of Complaint

Upon receiving a formal complaint, the University Grievance Council will be responsible for investigating the complaint. The University Grievance Council will be composed of the Grievance Officer (a tenured faculty member), the Director of Human Resources, one tenured faculty member (elected by the Faculty Senate in agreement with its by-laws) and one staff member appointed by the President. The faculty member and the staff member serve one year terms and may serve up to five consecutive terms. If the University Grievance Officer, the Director of Human Resources or the staff member is the object of the grievance, the President will appoint a replacement for that investigation. If the faculty member is the object of the grievance, the Senate Executive Committee will appoint a replacement for that investigation. If a complaint alleges inappropriate conduct or violation of University policies by a faculty member, the Grievance Officer will be the primary investigator. If a complaint alleges inappropriate conduct or violation of University policies by a staff member, the Director of Human Resources will be the primary investigator. The primary investigator may call upon other members of the University Grievance Council to help conduct an investigation into the complaint. University Counsel shall be available as a resource to the investigator on an as-needed basis.

The investigator will gather all pertinent information through personally interviewing and/or gathering written statements from the complainant, the accused faculty or staff member or representative of the University department (respondent), and any witnesses to the alleged behavior either party wishes to identify or provide.

The investigation may be terminated at any time should the complainant and the University agree in writing upon an informal resolution, and this resolution is accepted by the Vice President for Business or the Provost and Vice President for Academic Affairs. However, the Vice President or Provost may reject the proposed resolution and continue the investigation if the conduct, if proven, would warrant further action against the staff or faculty member by the University.

4.3.3.3 C. Confidentiality

At every stage of this procedure, information relating to the complaint or the grievance shall be considered confidential. All parties are encouraged to respect the confidentiality of this information and only disclose it to those who have a legitimate and necessary need to know.

4.3.3.4 D. Report

A written report of the investigation will be produced within 30 calendar days of receiving the complaint with copies provided to the grievant and to the respondent. Generally, the investigation report will contain sections on: (1) investigation background (what prompted the investigation and a description of the investigation process, including who was interviewed and when); (2) identification of University policies implicated by the complaint; (3) key factual findings of the investigation, including summaries of relevant information gathered from witnesses; and (4) a determination or conclusion about whether the complaint has merit. The author of the investigation report has the discretion to modify the format of the report. The Grievance Council will approve by majority vote the contents and conclusions of the written investigation report prior to its release.

Reports of the University Grievance Council will be housed in the office of the Director of Human Resources and will be released in accordance with policies governing confidential personnel records of the University.

4.3.4 IV. Decision

The investigation report will be given to either the Vice President for Business and CFO or the Provost and Vice President for Academic Affairs to determine an administrative solution to the complaint, if such an administrative solution is necessary.

The administrative solution may include the entire range of remedies available under University policy. In cases of inappropriate University action in regard to any academic policy or alleged misconduct by a faculty member, the report will be submitted to the Provost and Vice President for Academic Affairs. In cases of inappropriate University action in regard to any administrative policy or alleged misconduct by a staff member, the report will be submitted to the Vice President for Business and CFO.

If the person to receive the investigation report is either the respondent or the complainant, the report shall go to the President. If the respondent and the complainant include the Provost and Vice President for Academic Affairs or the Vice President for Business and CFO, the report shall go to the President.

At this time, the Provost and Vice President for Academic Affairs and the Vice President for Business and CFO may attempt to resolve the dispute informally unless one of these individuals is the respondent or claimant. If this attempt at informal resolution is unsuccessful, the Provost and Vice President for Academic Affairs or the Vice President for Business and CFO will then prepare and distribute a written statement of the administrative decision to the complainant and to the accused faculty or staff member or University office within 21 calendar days of his/her receipt of the report from the University Grievance Council. Either party may challenge the administrative decision, in writing, within 21 calendar days of his/her receipt of the written statement of the administrative decision. The challenge and request for a formal hearing must be submitted in writing to either the Provost and Vice President for Academic Affairs or the Vice President for Business and CFO. The matter then will be referred to a formal hearing.

4.3.5 V. Formal Grievance Hearing

When there is alleged misconduct by a faculty or staff member or an alleged inappropriate application of a University policy, and the complainant or respondent wants to challenge the investigation results and/or decision, that matter may be referred to a formal hearing. For a faculty member accused of misconduct or the alleged inappropriate application of a University policy affecting a faculty member, the formal hearing will be conducted by the Tenure, Grievance and Academic Freedom Committee. For a staff member accused of misconduct, or the alleged inappropriate application of University policy affecting a staff member, that formal hearing will be conducted by the Staff Grievance Committee. The Tenure, Grievance and Academic Freedom Committee will be elected as prescribed in 3.4.2 of the Faculty Senate by-laws and the chairperson will be elected annually by the Committee. The Staff Grievance Committee will be appointed annually by the Vice President for Business and CFO who will select one member as its chairperson. If the respondent is the appointed chairperson of the Committee, the Vice President for Business and CFO will appoint a chairperson pro tem for that specific proceeding. Staff Grievance Committee members shall serve one year renewable terms.

The Tenure, Grievance and Academic Freedom Committee and Staff Grievance Committee shall each be composed of seven members. For a particular hearing by the Tenure, Grievance and Academic Freedom Committee, a panel of five members shall be selected randomly from the pool of seven members. For a particular hearing by the Staff Grievance Committee, a panel shall be constituted consisting of the appointed chairperson and four members selected randomly from the remaining six members of the Committee. The grievant and the other individual party (either the complainant or the respondent who has not grieved the decision by the University Grievance Council) have the right to exercise one challenge without stating the reason for the challenge and excuse a member of the Grievance Committee. One or both of the two members not originally selected will be chosen randomly to fill in for the excused member or members. If any member of a Grievance Committee is either the complainant or the respondent, that member may not serve on the Committee adjudicating his/her case. In addition, a member of the Grievance Committee may recuse himself/herself if that individual member believes there is bias or the perception of bias in his/her consideration of the matter to be reviewed. If an additional Committee member/s is/are required, the Faculty Senate will elect the member/s for the Tenure, Grievance and Academic Freedom Committee and the Vice President for Business and CFO will select the member for the Staff Grievance Committee.

The chairperson will arrange to convene the formal hearing within 30 calendar days of the written request for a formal hearing being received. The individual appealing the decision (the grievant), the other individual party and the University representative will be notified in writing of the date, time and location of the meeting. At the hearing, the President or his/her designee will represent the University position.

Information presented at the hearing will be limited to matters addressed in the written complaint. At least seven (7) calendar days prior to the hearing, each party (the grievant and the University) will submit to the chairperson copies of any evidence and the names of any witnesses each may present, and the name and professional legal status of any person who may assist them at the hearing. These materials will be available to the opposing party upon request.

It is the responsibility of each party to secure any witnesses he or she intends to present. The University, the Tenure, Grievance and Academic Freedom Committee, and the Staff Grievance Committee will not be responsible for locating or compelling witnesses to provide testimony for the grievant.

If presentation of University records or documents is desired by either party in matters concerning inappropriate action by a University office, a written request should be submitted to the chairperson no less than fourteen calendar days

prior to the hearing. The chairperson will make a reasonable attempt to produce the requested material provided no privacy or confidentiality rights are violated by doing so. The release of any record containing identifiable student information must comply with the University's records policy and procedures.

1. The Hearing Procedure

The following will be the procedure of the formal hearing:

- (a) The hearing shall be closed to the public.
- (b) Potential witnesses, other than the grievant and the other individual party, will be excluded from the hearing during all testimony but his/her own.
- (c) The grievant, the University representative, and the other individual party may be present throughout the hearing. The grievant, the University representative, and the other individual party may present written and verbal evidence concerning the complaint, may respond to evidence presented by the opposing party and may question any witnesses presented by the opposing party.
- (d) The grievant and the University may be assisted by a person of his/her/its choice. This person may act as an advisor, but shall not be allowed to question witnesses or make statements to the Committee.
- (e) Formal rules of evidence do not apply to this process. The Grievance Committee maintains sole authority to determine admissibility and relevance of evidence and witnesses to be presented.
- (f) An audio tape recording will be made as the single verbatim record of the hearing. This record shall be the property of the University and shall be accessed only in accordance with University policies governing confidential personnel records.
- (g) The grievant will first present evidence and witnesses, with the University provided the opportunity to question the grievant and any witnesses presented, and to present a response at the conclusion.
- (h) At the conclusion of the grievant's presentation, the University may request that the Grievance Committee grant a summary decision on the grounds that the grievant has failed to offer evidence sufficient to support the complaint. If the request is granted, the complaint will be dismissed without further presentation by the University.
- (i) If a summary decision is not requested or is denied, the University will present evidence and witnesses, with the grievant provided the opportunity to question the University's witnesses presented, and to present a response at the conclusion.
- (j) Following presentation by both parties, closing statements will be presented, beginning with the grievant. Closing statements shall be made for the purpose of summarizing evidence presented and for recommending an appropriate determination to the committee. No new evidence is to be presented during closing statements.
- (k) Minor deviations from these procedures will not render a decision invalid unless it can be shown that the deviation caused substantial prejudice to one of the parties.
- (l) Except in cases involving the revocation of tenure for cause, the grievant has the burden of persuasion and it shall be satisfied by a preponderance of the evidence, considering the record as a whole. For the revocation of tenure for cause, there must be a showing of clear and convincing evidence in the record considered as a whole.

2. The Recommendation and Final Decision

The committee will provide a written recommendation in the matter within 21 calendar days of the conclusion of the hearing. The written recommendation will include a statement of the Committee's findings and, if the complaint was determined to have merit, a recommendation for appropriate action. The recommendation of the Committee will be

reported to the grievant, the University representative, and the other individual party prior to being submitted to the President. The grievant, the other individual party, or the University may submit to the President written argument that challenges the recommendation of the Committee on one or both of the following grounds only: (1) Procedural Error – such written appeal must specifically identify the procedural error including reference to the specific University procedural document that was violated; (2) Inappropriate Sanction – the written appeal must specifically state why the recommended sanction does not “fit” the findings of the Committee. The President will review the report of the Committee and the written appeals, if applicable, before rendering a final decision in the matter. The President may consult with University Counsel, the University representative, the Executive Committee of the Board of Trustees, and/or with other members of the Board in the formulation of the final resolution in the matter. Once approved for release to the parties in the matter and to the appropriate University administrator, the decision is final and binding on all parties. The decision shall be provided to the grievant, the other individual party, the University representative, if other than the President, and the appropriate University administrator who will impose any sanctions, if applicable. A record of the hearing shall be available for review by any of the parties in the matter.

It is the intent of the University that a grievance, issue or dispute presented in a formal hearing before the Tenure, Grievance and Academic Freedom Committee or the Staff Grievance Committee is the final hearing on that grievance, issue or dispute. Thus, a party who is unhappy with the result of the formal grievance hearing and the resulting decision may not file a complaint or grievance and start the process again.

In matters concerning inappropriate action by a University office, remedies available through this process are limited to corrective steps. That is, should the complaint or any portion be found to have merit as a result of the hearing process, remedies are limited to the correction of the situation and/or adjustment of the circumstances from which the complaint arose.

For matters in which personal misconduct by a faculty or staff members are determined to have occurred, corrective action, disciplinary action, or both may result. The imposition of discipline shall be administered by the Provost and Vice President for Academic Affairs or the Vice President for Business and CFO.