



Trustee Policy – Special Grievance Procedure

A. General Policy Statement

Stetson University College of Law (“the College”) is committed to the prompt and fair resolution of certain significant faculty concerns. This Special Grievance Procedure is restricted to grievances by a faculty member related to his or her dismissal or termination of employment, revocation of tenure, or alleged violation of his or her academic freedom. The term “faculty member” means any member of the tenured or tenure-track faculty, any member of the programmatically tenured or tenure-track faculty, visiting faculty, adjunct faculty, Distinguished Professorial Lecturers, or any other person assigned to regular classroom, clinical, or other academic teaching responsibilities in the J.D., LL.M., or other College of Law academic programs. All other faculty and staff concerns or complaints, including grievances relating to the non-renewal of a term contract, will be handled under the general College of Law Faculty and Staff Grievance Procedure.

No person’s employment or status with the College of Law will be adversely affected in any way as a result of using any of these procedures, nor will the College of Law tolerate any retaliatory action against a person using these procedures.

The purpose of this Special Grievance Procedure is to ensure that complaints are resolved internally within the College of Law community in a fair manner. This procedure also encourages the parties to make an immediate attempt to resolve all types of problems at the level at which they occur.

B. Informal Resolution Step

The College of Law will make a good faith effort to seek resolution of a problem informally brought to its attention through discussion and communication with the involved parties. The College encourages all faculty members to attempt an informal resolution prior to initiating the formal grievance procedure. A faculty member who believes he or she may have a grievance should meet with his or her immediate supervisor for an informal discussion of the matter.

Regardless of the nature of the grievance, such informal meetings should occur within thirty (30) calendar days after the date the grievant knew or should have known of the adverse action or decision upon which the grievance is based. For purposes of this Informal Resolution Step, the Associate Dean for Academics will be considered the immediate supervisor for any grievances brought by members of the faculty. Both parties shall make a good faith effort to resolve the matter informally, but the supervisor may consult with other College officials, as appropriate. All parties shall meet in good faith and make every attempt to resolve the matter in an equitable

and professional manner. The informal resolution process shall be deemed ended when either the grievant or the supervisor declares that it has ended.

C. Formal Grievance Resolution

If a grievance is not resolved by less formal means, the following formal grievance process may be employed:

1. Filing a Written Grievance

A faculty member who is dissatisfied with the results of the informal resolution process may invoke the formal grievance procedure by filing a written grievance with the Associate Dean for Academics within a period of time determined by the later date of the following two time periods: fifteen (15) calendar days after the end of the informal resolution process, or forty-five (45) calendar days after the date the grievant knew or should have known of the adverse action or decision upon which the grievance is based. Any grievance that is not timely filed in accordance with this procedure, without good cause shown, shall be considered to have been waived or withdrawn by the grievant.

The written grievance shall include at least the following:

- a. Identification of the individual against whom the grievance is brought.
(Grievances should be brought against the supervisor, administrator or other individual who took the specific action upon which the grievance is based.)
- b. A description of the specific action giving rise to the grievance.
- c. The date or period of time during which the action occurred and the location of the incident.
- d. The desired remedy.
- e. The name, address and telephone number of the grievant.
- f. The grievant's signature.

Upon receipt of a formal written grievance, the Associate Dean for Academics will send a copy of the grievance to the Dean and the person against whom the grievance was brought ("the respondent").

2. Hearing and Resolution of a Formal Grievance

The formal grievance shall be heard by an ad hoc Hearing Committee. The ad hoc Hearing Committee will be composed of three tenured faculty members of the College of Law be selected as follows: One member will be appointed by the grievant, one member will be appointed by the Dean, and those two members will choose the third member, who shall chair the Committee.

If any Committee member declines or becomes unable to serve, that Committee member will be replaced in the same manner in which he or she originally was appointed. The Dean will appoint a College representative who will participate in the hearing.

The Chair of the Hearing Committee will convene a hearing within thirty (30) calendar days of the date the Committee is appointed. This time period may be extended by written agreement of the grievant, the respondent and the College representative. The Chair will give the grievant, the respondent and the College representative written notice of the date, time and location of the hearing at least twenty (20) calendar days in advance.

Information and evidence presented at the hearing will be limited to issues raised in the formal written grievance. At least seven (7) calendar days before the hearing, the grievant, the respondent and the College representative will submit to the Committee Chair copies of any documentary evidence they intend to present, the names of any witnesses they intend to call to testify, and the name and professional status of any person they intend to have assist them at the hearing. These materials shall be available to the grievant, the respondent, and the College representative upon request.

It is the responsibility of each party to secure any witnesses he or she intends to present. Neither the College of Law nor the Hearing Committee is responsible for locating or compelling witnesses to provide testimony for the grievant.

The Committee members will have the opportunity to question witnesses who testify at the hearing. If a witness is unable or unwilling to appear at the hearing, the Committee may identify the witness, disclose the witness's statements to the respondent, and, if possible, provide for interrogatories.

If presentation of College or University records or documents is desired by either party in matters concerning alleged inappropriate action by a College or University employee or office, a written request should be submitted by the party to the Dean no less than fourteen (14) calendar days before the hearing date. The Dean 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 will be effectuated only where possible under FERPA.

The Committee will observe the following hearing procedures:

- a. The hearing is private and closed to the public; all attendees must be approved by the Committee Chair. Unless an exception is made by the Committee for good cause shown, the hearing will be conducted on the College of Law campus.
- b. Potential witnesses, other than the grievant, the respondent, and the College representative, will be excluded from the hearing during all testimony but their own.
- c. The grievant, the respondent, and the College representative may be present throughout the hearing, may present written and oral evidence concerning the grievance, and may respond to evidence presented.
- d. The grievant, the respondent and the College representative each may be assisted by a person of his or her choice to serve as an advisor, but such person is not be allowed to question witnesses or make statements to the Committee.
- e. Formal rules of evidence do not apply to this process. The Hearing Committee has

the sole authority to determine the admissibility and relevance of evidence and witnesses to be presented.

- f. An audio tape recording will be made as the official and exclusive verbatim record of the hearing, and it may be transcribed at the discretion of the Committee. This record shall be the property of the College of Law.
- g. The grievant will first present evidence and witnesses. The testimony of all witnesses will be given under oath and all witnesses will be subject to examination by the grievant, the respondent, the College representative and Committee members in an orderly process as determined by the Committee Chair and taking into consideration the lines of inquiry offered by the grievant, respondent, and College of Law representative.
- h. At the conclusion of the grievant's presentation, the respondent and/or the College representative may request that the Committee grant a summary decision on the grounds that the grievant has failed to offer evidence sufficient to support the grievance. If the request is granted, the grievance will be dismissed without further presentation.
- i. If a summary decision is not requested or is requested but denied, the respondent may present evidence and witnesses at the conclusion of the grievant's case. At the conclusion of the respondent's case, the College representative may present evidence and witnesses.
- j. Following the close of all presentations, closing statements may be presented, beginning with the grievant, followed by the respondent, and ending with the College representative. Closing statements will be made for the purpose of summarizing evidence presented, making oral argument, and 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 or the dismissal or termination of employment of a faculty member, the grievant has the burden of proof, which must be satisfied by a preponderance of the evidence, considering the record as a whole. Except where otherwise provided by law or regulation, cause for the revocation of tenure or the dismissal or termination of employment of a faculty member must be established by a showing of clear and convincing evidence, considering the record as a whole.

The Committee will deliberate in closed session following the hearing, and will reach a decision by majority vote. The Committee's decision shall include a statement of findings and, if the grievance is sustained in whole or in part, a recommendation for appropriate action. The Committee's written decision and a copy of the record will be submitted to the Dean within thirty calendar days after the hearing is concluded, with a copy of the decision simultaneously submitted to the grievant, the respondent and the College representative. A copy of the record of the hearing will be available for review by the grievant, the respondent, and the College representative.

D. Administrative Review and Final Appeal

1. Review and Decision by the Dean

The Dean shall review the decision and the record. If the Dean determines that clarification of the record is needed, he or she may return the case to the Committee with specific concerns noted. The Committee then shall reconsider its decision, taking into account the stated concerns of the Dean. The Committee may receive additional evidence if it deems necessary. The parties shall be given an opportunity to review and respond to any additional evidence so received, but such reconsideration will not constitute a de novo rehearing of the case. The Committee shall conclude its reconsideration and submit to the Dean a supplemental record and decision no later than twenty (20) calendar days after receipt of the request for reconsideration from the Dean.

The Dean shall make a final decision based on a study of the Committee record and decision, including the supplemental record and decision, if any. The Dean's final decision shall be in writing and shall include the imposition of sanctions, if appropriate.

2. Appeal to the President

The grievant or the respondent may appeal the final decision of the Dean to the President of the University by filing a written request for review with the Office of the President no later than fifteen (15) calendar days after the date of the Dean's final decision, with a copy of the request filed simultaneously with the other parties, the Dean and the Chair of the Hearing Committee. Upon receipt of written notice of the appeal, the Committee Chair shall promptly forward a copy of the record to the President.

The President shall review the case based on the record and decision, and supplemental record and decision, if any. The President's decision shall be in writing and shall include the imposition of sanctions, if appropriate. The President's decision shall be final and binding on all parties, and shall be sent simultaneously to the grievant, the respondent, the College representative, the Chair of the Hearing Committee and the Dean of the College of Law.

3. Appeal Procedure if Dean is Respondent

If the Hearing Committee rules that the Dean is properly named as a respondent in the grievance, Section D.1 above will not apply and an appeal may be taken directly to the President. In such event, the Dean may file written comments with the President.

E. Miscellaneous Provisions

1. Remedies

In matters concerning inappropriate action by a College of Law office, remedies available through this process are limited to corrective steps. That is, should the grievance 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 grievance arose.

A faculty member who is involved in a grievance, including the grievant, may be suspended while the grievance is pending, but any such suspension shall be with regular pay and benefits, except in exceptional circumstances determined by the Dean and ratified by the President of the University.

If personal misconduct by a faculty member is deemed to have occurred, corrective action, disciplinary action, or both may result. The imposition of discipline shall be administered by the Dean or appropriate supervisor.

2. Initiation of Action Outside the College

If the grievant initiates an action outside of the College of Law community at any time during this procedure (including but not limited to the informal resolution stage, the hearing stage, or the review by the Dean or President), the College of Law has the right to terminate, modify or adjust this procedure.

3. Confidentiality

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

Adopted by Board of Trustees: September 7, 2000; re-printed from Employee Handbook, Section 3.7; administrative revisions in July 2008, March 5, 2010 and June 26, 2011.