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5. FACULTY

Policy 5.G: Faculty Grievance

5.G.1 Grievance Rights

- (A) As provided in article 5, part D, and further articulated in regent policy 5.E, a faculty member on a tenured or tenure-track appointment who is facing dismissal for cause has the right to file a grievance with the Faculty Senate grievance committee.
- (B) As provided in article 5, part D, and further articulated in regent policy 5.D, any tenured or tenure-track faculty member who is denied reappointment, tenure, or promotion and believes that there have been serious procedural or factual errors in the case, or the denial occurred through the material violation of the laws of the regents or regent policy, may file a grievance with the Faculty Senate grievance committee.
- (C) As provided in article 5, part D, any member of the Faculty Senate may file a grievance for perceived violations of their academic rights (as delineated in regent law or policy), including, but not limited to, those arising during an annual evaluation or post-tenure review process.
- (D) As provided in article 5, part D, any individual afforded the right of academic freedom, may file a grievance for perceived violations of academic freedom.

5.G.2 Faculty Senate Authority to Hear Grievances

- (A) The authority granted to the Faculty Senate grievance committee by the Board of Regents is the result of a collaborative process between the faculty, administration, and regents to ensure an appropriate role for faculty governance in disciplinary actions taken against faculty members and in addressing violations of a faculty member's academic freedom or academic rights.
- (B) The Faculty Senate grievance committee shall be constituted as provided in the Faculty Senate constitution and shall investigate, mediate and hear grievances submitted by members of the faculty and make recommendations to the administration on specific grievance cases, consistent with regent law and policy.
- (C) The committee shall have the authority to develop its internal administrative rules consistent with regent law and policy. The policies and procedures of the Faculty Senate grievance committee shall be provided in the Faculty Senate constitution and bylaws.

46 5.G.3 The Faculty Senate Grievance Process

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48 (A) Jurisdiction

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- 50 (1) The jurisdiction of the Faculty Senate grievance committee is expressly
51 limited to the review of those grievances described in section 5.G.1.
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- 53 (2) The committee shall not substitute its judgment about an individual's
54 academic merit for that of other authorized committees and administrators.
55 The committee shall only consider whether proper procedures were followed.
56
- 57 (3) In cases involving faculty personnel decisions resulting from program
58 discontinuance, the committee shall not consider the validity of the program
59 discontinuance decision. The committee shall consider only whether proper
60 procedures were followed in taking these personnel actions.
61
- 62 (4) In disciplinary matters, the committee shall consider the merits of the matter
63 before it, as well as the process.
64
- 65 (5) The investigation of certain matters may be reserved to another entity or
66 official within the University of Colorado by law or university policy, such as
67 the investigation of allegations of discrimination and harassment by the
68 relevant campus office that deals with matters of equity and discrimination,
69 the investigation of allegations of research misconduct by the Standing
70 Committee on Research Misconduct, or the investigation of fiscal misconduct
71 by the Internal Audit Department. In those cases, the Faculty Senate
72 grievance committee shall defer to those offices to complete their
73 investigations and shall be bound by the factual and policy determinations of
74 those investigations absent reliable evidence that those determinations
75 resulted from: (1) material and prejudicial error during the course of the
76 investigation; (2) manifest bias upon the part of the investigating official or
77 entity; or (3) fraud, misrepresentation or misconduct by a party to the
78 proceedings. In making these determinations, the Faculty Senate grievance
79 committee shall not consider new evidence challenging the factual and policy
80 determinations except for evidence that could not, in the exercise of
81 reasonable diligence, have been presented in the earlier proceedings. The
82 Faculty Senate grievance committee shall not consider a grievance until
83 these processes are completed. The Faculty Senate grievance committee is
84 not bound by the recommendation of sanctions made by any investigating
85 official or entity and may propose alternative sanctions to the administration
86 or Board of Regents.
87
- 88 (6) The recommendations of the Faculty Senate grievance committee shall be
89 considered before final action is taken; however, the ultimate authority rests
90 with the administration or Board of Regents. In all cases, a report shall be
91 issued to the grievance committee chair that identifies the final action taken
92 and the rationale for such action.
93

94 (B) Time Limits for Filing a Grievance

95
96 (1) Dismissal for Cause Grievance Filings

97
98 (a) If the administration is initiating dismissal for cause proceedings to
99 terminate a tenured or tenure-track faculty member, the faculty member
100 shall be given written notification and may request, within 10 business
101 days of receipt of notification, that the president or chancellor refer the
102 matter to the Faculty Senate grievance committee. Upon receipt of such
103 a request, the president or chancellor shall refer the matter to the
104 grievance committee within 5 business days. If the individual concerned
105 does not request referral to the grievance committee within 10 business
106 days, the faculty member shall be deemed to have forfeited the right to
107 such proceedings.

108
109 (b) If the faculty member files a grievance, they may respond in writing to
110 the notice of intent to dismiss, contesting the grounds for dismissal. If
111 the faculty member elects to respond, the response shall be provided to
112 the grievance committee chair no later than 20 business days after
113 receipt of the notice of the intent to dismiss.

114
115 (2) All other Grievance Filings

116
117 (a) In cases involving promotion, tenure, or non-reappointment, grievance
118 statements must be received by the grievance committee chair within
119 ~~4060 business calendar~~ days following the faculty member's receipt of
120 written notification of final action by the chancellor or other person with
121 final administrative authority over the matter at issue.

122
123 (b) In cases involving suspension and other disciplinary actions, excluding
124 dismissal for cause, grievance statements must be received by the
125 grievance committee chair within ~~2030 business calendar~~ days after the
126 faculty member's receipt of written notification of the action.

127
128 (c) In cases of alleged violations of academic freedom or academic rights,
129 grievance statements must be received by the grievance committee
130 chair within ~~2030 business calendar~~ days after the faculty member is
131 advised of the administrative action or decision, which is the basis of the
132 complaint.

133
134 (d) The time for filing a grievance may be extended by the grievance
135 committee chair for up to an additional ~~4060 business calendar~~ days if
136 the faculty member is not reasonably able to file the grievance within
137 the prescribed period. Verification of the faculty member's inability to file
138 may be required.

139
140 (e) The grievance committee chair shall notify the chancellor, in writing, that
141 a grievance has been filed. This notification shall occur within 10
142 business days of receiving the grievance request.

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144 (3) In all cases, the faculty member's receipt of notification is determined by:
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- (a) the date of delivery, if the notice is sent by personal delivery;
- (b) the date acknowledged by signature on a receipt, if the notice is sent by certified or registered mail, return receipt requested, or by alternative delivery service, with signature required for delivery;
- (c) 5 business days following the mailing date, if the notice is sent by U.S. Postal Service to the last address on record;
- (d) 5 business days following the shipping date, if the notice is sent by alternative delivery service to the last address on record.

(C) Grievance Proceedings

- (1) In order to provide for the expeditious review of grievances, grievants and administrators shall cooperate by providing current contact information, by making themselves available during investigations and hearings as requested by the committee, and by providing relevant documents. A failure to cooperate shall be documented and considered in the evaluation of the case.
- (2) The faculty member shall be permitted to have counsel and the opportunity to present and question witnesses according to the rules of procedure established by the grievance committee.
- (3) In dismissal for cause grievance cases, the administration shall bear the burden of proof by clear and convincing evidence. In all other grievance cases, the faculty member shall bear the burden of proof by a preponderance of the evidence.
- (4) In accordance with the confidentiality expected of the grievance process and as permitted by law, all parties in the grievance process and the committee members shall maintain the confidentiality of the grievance proceeding.
- (5) Mediation shall be available during the grievance process as a means of resolving faculty grievances. Mediation shall not unreasonably delay the resolution of a case.
- (6) If the grievance committee chair determines that the Faculty Senate grievance committee does not have jurisdiction over the case, the chair shall close the case and notify all parties.
- (7) If an investigative panel of the grievance committee concludes that there are no reasonable grounds for believing that a violation of academic rights, privileges or tenure have occurred, the chair shall close the case and notify all parties.
- (8) If, at any point during the grievance process, the faculty member and the administration reach a resolution, the grievance committee chair shall close the case.

- 196 (9) A faculty member who files a grievance may withdraw the complaint at any
197 time during the grievance process, at which point the committee chair shall
198 close the case.
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200 5.G.4 Findings and Recommendations

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202 (A) Grievance Cases Involving Dismissal for Cause

- 203
204 (1) At the conclusion of grievance proceedings, the Faculty Senate grievance
205 committee will share its final report with all involved parties and forward its
206 findings and recommendations to the president or chancellor.
207

- 208 (a) Findings and recommendations shall be sent to the president or
209 chancellor within 90 business days of referral to the faculty grievance
210 committee chair, unless an extension has been granted by the president
211 or chancellor.
212

- 213 (2) Decisions shall be made in accordance with regent policy 5.E.
214

215 (B) All Other Grievance Cases

- 216
217 (1) At the conclusion of grievance proceedings, the grievance committee chair
218 will share the committee's findings and final recommendations with all parties.
219

- 220 (a) Findings and recommendations shall be sent to the chancellor no more
221 than ~~180~~120 business calendar days after the grievance statement has
222 been received by the grievance committee chair.
223

- 224 (2) The chancellor shall provide a response to the committee chair within 10
225 business days of receiving the findings and recommendations. The
226 chancellor's response shall address each of the grievance committee's
227 recommendations, indicating what action the chancellor intends to take in
228 response to the recommendations and an explanation for such action.
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- 230 (a) If the grievance committee determines that the chancellor's response
231 satisfactorily addresses the committee's recommendations, the chair
232 shall notify all parties and close the case.
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- 234 (b) If the grievance committee is not satisfied with the chancellor's
235 response, the committee chair shall, within 10 business days, report the
236 disagreement and the basis thereof and forward a copy of the record of
237 the case to the president for review.
238

- 239 (c) The president's decision is final.
240

- 241 (3) If the grievance case relates to the denial of tenure by the president (following
242 a positive recommendation by the chancellor), the president shall consider
243 the recommendations of the grievance committee, but retains authority for the
244 final decision.
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- 246 (4) Upon the final resolution of a case, the president shall provide the Faculty
247 Senate grievance committee chair with a written report of the final action

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taken. The report shall include a detailed rationale for actions inconsistent with the grievance committee’s recommendation.

- (C) In all cases, the chancellor, president, or Board of Regents shall take such action deemed to be in the best interests of the university and in accordance with regent laws, regent policies, and applicable federal and state laws, rules and regulations.

History:

- Adopted: September 14, 2018 (Moved from the old article 5.C and policy 5.H); Became effective July 1, 2020.
- Revised: N/A.
- Last Reviewed: September 14, 2018.

DRAFT