

COLLEGE OF EDUCATION

FACULTY GRIEVANCE PROCEDURES

ADOPTED  
FACULTY AFFAIRS COMMITTEE  
MARCH 6, 1996  
AMENDED FEBRUARY 9, 1998

- A. Applicability. This procedure shall apply to complaints relating to allegations of discrimination including those on the basis of race, creed, color, national or ethnic origin, religion, age, sex, sexual orientation, or handicap in any educational or employment program, policy, procedure, or practice of Georgia State University; allegations of arbitrary or capricious decisions affecting the faculty member's employment or professional reputation; and allegations by a faculty member or group of faculty members that the faculty member's contract has been violated, EXCEPT that this procedure shall NOT apply to matters covering under Article XI, Section 24, "Institutional Regulations for Removal of Faculty Members" or to matters related to administrative appointments or responsibilities.
- B. Definitions.
1. A complaint is an allegation of a misinterpretation, incorrect application, or violation of a policy, practice, or procedure not pursued by the faculty member in a forum outside the University. The use of this appeals procedure is not available if a formal complaint is filed with a governmental agency or a court action has been initiated based upon substantially similar facts, in which case any investigation then in progress by the University will be terminated relative to the appeals process.
  2. A complainant is a faculty member who seeks resolution of a complaint through the informal or formal procedures as outlined herein.
  3. A respondent is a person against whom a complaint is filed.
  4. The College of Education Faculty Appeals Committee is an elected body to which complaints are referred by the dean, which responds to complaints and from which hearing panels are derived. The College of Education Faculty Appeals Committee must have this charge as its sole function.
  5. The Hearing Panel, derived from the College of Education Faculty Appeals Committee, is charged with hearing complaints, and making recommendations regarding the complaints.
  6. For purposes of counting, a day is any weekday (Monday-Friday) on which classes or exams are scheduled in the college applicable to the appeal during Fall or Spring terms. Complaints arising during the Summer term or ones not resolved at the end of Spring term, shall be continued into Fall term unless both the complainant and respondent (and if applicable, the mediator or the Hearing Panel) agree to continue through the summer term.

C. Informal Procedures.

1. Before a faculty member brings a formal complaint, the faculty member must first attempt to resolve the matter informally by discussion with the respondent. This informal discussion shall be initiated by the complainant within ninety (90) days of the knowledge of the consequence of event(s) upon which the complaint is based.
2. If the matter is unresolved by informal discussions, and the complainant wishes to pursue the matter, the complainant must, within one hundred ten (110) days of knowledge of the consequence of event(s), submit a written complaint to the respondent. The written complaint shall state the exact nature of the complaint and the remedy sought.
3. If no resolution has been reached within fifteen (15) days after presentation of the written complaint, the informal procedures are considered ended. The complainant may request mediation or the complainant may request a hearing. Such a request must be filed with the dean within ten (10) days of the conclusion of these informal procedures. During the mediation process, the time within which to present a written complaint is suspended (see F.2.).
4. The Provost and Vice President for Academic Affairs with the approval of the Faculty Affairs Committee of the College of Education shall provide a standing Faculty Counselor to provide information to complainant during the appeals process.

D. Optional Mediation Procedures

1. Mediation is an option within the appeals procedure of the College of Education. If the complaint is not resolved by informal procedures, then the parties in the complaint may agree to mediation following the informal procedures and preceding the complainant's request for a hearing.
2. The Provost and Vice President for Academic Affairs with the approval of the College of Education Faculty Affairs Committee shall provide a list of mediators.
3. The criteria listed below shall pertain to the College of Education mediation procedure:
  - a. The mediation procedure is a part of the college's appeals procedure.
  - b. The mediation procedure shall be used only upon mutual agreement of the complainant and respondent and shall provide for a mediator or mediators to be nominated by the Provost and Vice President for Academic Affairs and to be agreed upon by the complainant and respondent.
  - c. The mediation procedure may be terminated by either the complainant, respondent, or mediator at any time.
  - d. Each participant in the mediation procedure shall be encouraged to participate in good faith in an effort to resolve the dispute.
  - e. The mediation procedure shall contain explicit limits which are

reasonable, but in no event shall maximum time exceed thirty (30) days. These limits shall be observed by the complainant and respondent. Immediately upon conclusion of mediation, the mediator shall notify in writing the respondent and complainant that mediation has been concluded and explain the terms of the mediation agreement. While the results of the mediation shall be recorded, no other University records shall be created or maintained of the mediation process.

- f. Concessions and offers made during mediation shall not later be used by either the complainant or respondent if the dispute continues beyond mediation. A complaint based on failure to comply with an agreement reached in mediation may be the basis of a subsequent appeal.

## E. Formal Procedures

### 1. Committee Membership

The Faculty Appeals Committee is a standing subcommittee of the Faculty Affairs Committee of the College of Education. The Faculty Appeals Committee shall consist of eighteen members. Each department of the College of Education shall elect three representatives from among its faculty (1) who have been full time faculty members of the College of Education for three academic years, (2) who hold the rank of Associate Professor or Professor, and (3) who have been awarded tenure. Faculty members so elected shall serve a term of two years. A schedule for each department's election has been established so that one half of the members of the Committee will be elected each year. Departments should hold elections for representatives during the Spring Semester. The department chair will notify the Dean and the Chair of the Faculty Affairs Committee of the results of the election by May 1 or nearest work day. The term of office will be the academic year beginning each Fall Semester. Should a vacancy occur before a person has completed a full term, the affected department will fill that vacancy by holding a special election. The Faculty Appeals Committee will have its initial meeting at the call of the Chair of the Faculty Affairs Committee in the month of August. The order of business for the initial meeting of the committee shall be the election of a chair and vice chair from its membership.

### 2. Initiating a Hearing.

- a. If the complaint has not been resolved by informal procedures and if the complainant wishes to pursue the matter, the request for a formal hearing must be filed by the end of the tenth (10th) day following the conclusion of the informal procedures (see item C.2. above). If the complainant and respondent have participated in mediation, the request for a formal hearing shall be made by the end of the tenth (10th) day following the date of notification to the respondent and complainant by the mediator that mediation has concluded. The request for a hearing shall be written and

shall be addressed to the chair of the College of Education Faculty Appeals Committee with a copy to the dean or designee and to the respondent. The dean shall acknowledge in writing receipt of the complaint.

- b. The dean or designee shall notify the College Faculty Appeals Committee of the Request within ten (10) days of the receipt of the complaint. The notification should include only names of complainant and respondent. By the conclusion of this same ten-day (10-day) time period, the complainant shall set forth in detail the nature of the complaint and the redress sought along with any supporting documents. A copy of all of these materials shall be sent to the respondent and to the chair of the College Faculty Appeals Committee by the complainant.
- c. The respondent shall submit a written response to the complaint, along with any supporting documents, to both the chair of the College Faculty Appeals Committee, and the complainant within ten (10) days of receipt of the complainant's materials.
- d. Upon receipt of the response the chair of the College Faculty Appeals Committee shall organize in consultation with the complainant and respondent to form a Faculty Appeals Hearing Panel of no fewer than five (5) people.

### 3. Formation of Hearing Panel.

- a. The members of the College Faculty Appeals Committee who will serve as the Hearing Panel shall be drawn by lot within ten (10) days of receipt by the College Faculty Appeals Committee of the response to the complaint. These procedures shall include the following provisions.
  - (1) The complainant and respondent each shall be allowed to disqualify without cause one member of the Hearing Panel.
  - (2) No member from the complainant or respondent's department shall be allowed to serve on the hearing panel.
  - (3) The complainant and respondent shall be allowed to request the disqualification, for cause, of any member of the Hearing Panel. The chair of the College Faculty Appeals Committee shall determine whether a statement of cause is valid grounds for removal of a member from service on the Hearing Panel. If the complainant or respondent request the removal of the College Faculty Appeals Committee chair for cause, the vice chair shall determine whether the statement of cause is valid grounds for removal.
  - (4) College Faculty Appeals Committee members may remove themselves from service on the Hearing Panel for cause (subject to the agreement by the chair of the College Faculty Appeals

Committee) without prejudice to serving the remainder of their term on the College Faculty Appeals Committee.

- (5) In the event of disqualification of Hearing Panel members such that fewer than five (5) members remain for hearing a complaint, additional members from the college faculty at large may be considered for the Hearing Panel subject to agreement by both complainant and respondent and subject to disqualification as outlined above. If a hearing committee cannot be constituted according to these guidelines the matter is referred to the University Hearing Committee.
- (6) If the complainant or respondent feels that a fair hearing cannot be conducted by the College Faculty Appeals Committee, the complainant or respondent may petition the Provost and Vice President for Academic Affairs before the Hearing Panel is selected for a hearing by the University Hearing Committee. The hearing will be conducted according to their rules.

- b. The Hearing Panel chair will be elected by the committee.
- c. Until the hearing procedure in the college is complete, the group responsible for considering all matters related to the complaint shall be the Hearing Panel as constituted by these procedures.

4. Hearing procedures shall be conducted according to the following:

- a. The first order of business for the Hearing Panel after the determination of its chair is the determination of the rules of the hearing. This action must be completed within five days. Because each appeal is unique, the conditions under which a given hearing will be conducted (rules, order, agenda, etc.) will be determined by the Hearing Panel after consultation with the complainant and respondent and with University Counsel. The hearing shall be considered closed unless all participants agree to the contrary. The Hearing Panel will notify the complainant and respondent in writing of the conditions under which the hearing will be conducted at least ten (10) days in advance of the hearing.
- b. A hearing will be scheduled to begin within fifteen (15) days of the notification of the rules of the hearing.
- c. The complainant has the right to be in attendance throughout the presentation by the respondent, and the respondent has the right to be in attendance through the presentation by the complainant; the complainant and respondent have the right to be accompanied by counsel, have the right to call witnesses, and to question witnesses. Witnesses have the right to be accompanied by counsel. Counsels for the complainant and respondent and counsel for witnesses shall not have the right to address the

Hearing Panel nor the witnesses unless requested to do so by the Hearing Panel. The Hearing Panel may have counsel throughout the proceedings.

- d. An audio tape of the hearing will be kept at college expense. The complainant and respondent may receive one copy upon request.

F. Procedures Following the Hearing

1. Decision of the Dean.

- a. Within ten (10) days of the close of the hearing, the Hearing Panel will transmit in writing, confidentially, its findings, arguments (if any), and recommendations to the dean, complainant, and respondent by personal delivery or registered mail. Committee recommendations are not binding to the dean. The report shall be signed by all members of the Hearing Panel. In the report, dissenting opinions to the majority shall be signed by the appropriate Hearing Panel members.
- b. Within thirty (30) days of receipt of the final report, the dean will transmit in writing to the Hearing Panel, to the complainant and to the respondent the dean's decision in reference to the formal record and the actions, if any, which will be taken.
- c. The Hearing Panel has, at this point, fully discharged its obligations and shall have no further role. Because the case may yet be appealed, Hearing Panel members shall not comment on the hearing proceedings.
- d. If the complaint is against the dean of a college, then the College Hearing Committee report will be forwarded to the Provost and Vice President for Academic Affairs.

2. Appeal to the Provost and the Vice President for Academic Affairs.

- a. The complainant may appeal the dean's decision to the Provost and Vice President for Academic Affairs. The appeal must be submitted in writing within ten (10) days of receipt of the dean's decision. No new or additional charges may be added to the complaint.
- b. The appeal to the Provost and Vice President for Academic Affairs shall state the complaint, the redress sought, and include any supporting documentation.
- c. The Provost and Vice President for Academic Affairs shall consider the appeal based upon the formal record. The Provost and Vice President for Academic Affairs shall render a decision within thirty (30) days of receipt of the appeal request.
- d. If complainant or respondent charge that proper procedures were not followed in the College Faculty Appeals Committee, the complainant or the respondent may petition the Provost and Vice President for Academic

Affairs and provide evidence of misconduct for a new hearing by the University Hearing Committee. The hearing will be conducted following the rules of the College Faculty Appeals Committee. The granting of such a hearing should be based on failure of the original hearing committee to follow procedures and not on discontent with conclusions.

3. Appeal to the President.
  - a. The complainant may appeal the decision of the Provost and Vice President for Academic Affairs to the President of the University. To do so, the complainant must submit an appeal, along with reasons for doing so and redress desired, in writing, to the President within ten (10) days of receipt of the decision of the Provost and Vice President for Academic Affairs.
  - b. The President shall consider the appeal based upon the formal record and other information or materials requested by the President. The complainant and respondent will both be notified of the request for additional information, and will be allowed to respond. The President shall render a decision within thirty (30) days of receipt of the appeal request.
4. Appeal to the Board of Regents.

Further appeal of the President's decision shall be in accordance with University System Bylaws.

G. Miscellaneous General provisions.

1. **Withdrawing Complaints:** A complainant may withdraw, in writing, the complaint prior to the distribution of materials (as outlined in E.2.b.) to the College Faculty Appeals Committee members. Upon the agreement of the respondent, the complainant may withdraw the complaint at any subsequent time.
2. **Waiving the Hearing:** Upon agreement of the respondent, a complainant may waive the hearing, requesting that the Hearing panel's report and recommendations be reached only on the basis of the formal complaint, the written response and any documentary evidence submitted by either party and available to both parties for examination and rebuttal. Having waived a hearing, the complainant is not entitled to rescind the waiver.
3. **Point of Decision:** These procedures presume that the Hearing Panel will make recommendations to the dean of the college. In the event that the primary respondent is the dean of the college, the Hearing Panel recommendations will be made to the Provost and Vice President for Academic Affairs. Any appeals of the decision of the Provost and Vice President for Academic Affairs will be made to

- the President.
4. Remedial Action: If at any administrative level, the complainant's charges have been substantiated, or the parties agree to conclude the appeal, the appropriate administrator may confer with the complainant in determining appropriate action. The University will implement the action upon the directive of the properly authorized administrator.
  5. Legal Sufficiency: Any agreements reached by the parties shall be reviewed by the university legal counsel for legal sufficiency and compliance with University System and university policy and procedure.
  6. Burden of Proof: The complainant has the burden of proving allegations raised in the complaint.
  7. Non-retaliation: Any individual exercising his or her rights under this appeals procedure will be treated fairly and the complaint will be given unbiased consideration. Neither individuals using this procedure, nor individuals providing information so that the facts can be determined, will be penalized or harassed for their participation in the appeals process.
  8. Time Limits: Each step of these procedures has specific time limits that shall be observed. The counting of time during the appeals procedure will begin on the next day following the effective date of knowledge of the consequences of the alleged event upon which the complaint is based; it will continue for each step on the next day after completion of the preceding step. All time limits contained in the foregoing procedures may be extended by written consent of the parties during the informal stage, by the mediator during mediation, by the chair of the Faculty Appeals Committee during the initiation of the formal hearing. Once recommendations of the Hearing Panel have been forwarded to the dean or other appropriate official, or appeals of the dean's decision have been filed, time limits may be extended by mutual agreement of the complainant and the dean or other official.
  9. Confidentiality of Proceedings: When appropriate, the University shall take all reasonable steps to insure the confidentiality of all proceedings, hearings, and records. However, should confidentiality be breached regarding these proceedings, all parties reserve the right to issue statements.
  10. Retention of Hearing Materials: Following a hearing and any appeals which may be filed thereafter the college will retain written documents presented by the complainant, the respondent, or any parties to the appeals, along with the audio tapes of the proceedings of the hearing for four years.