CHAPTER THREE: 3840
EMPLOYMENT INFORMATION CONCERNING FACULTY AND STAFF
April 2014

3840

PROCEDURES FOR FACULTY APPEALS

PREAMBLE: This section deals with the procedures for faculty appeals. It formed a part of the 1979 Handbook and was revised in July of 1994 to add harassment on the basis of race, color, religion, gender, national origin, age or disability to the "areas of concern" and in January of 1996 so as to remove the Faculty Affairs Committee from those bodies through which an appeal had to travel before being heard. The section was substantially revised in July 1999 and again in July 2002 to clarify the committee’s scope and its procedures, and A was revised in 2007 to add a process for addressing retaliation complaints. In 2008 the committee composition previously in C and D was moved into FSH 1640 Committee Directory. In April 2014 changes were made to E-3 to bring the policy into alignment with Regents policy. Further information is available from the Provost’s Office (208-885-6448) or the Office of the Faculty Secretary (208-885-6151). [rev. 7-99, 7-02, 7-07, 7-08, ed. 7-00, 7-05, 4-14]

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A. AREAS OF CONCERN. The procedures provided in this policy are to be used by faculty members to appeal administrative decisions, including without limitation decisions in such matters as denial of tenure, denial of promotion, position description, performance evaluation, salary determination, and to challenge the contents of personnel files. Applicability of these procedures to some matters is subject to certain limitations and exclusions — nonrenewal of fixed-term appointments [see 3900 F and F], dismissal for cause [see 3910, in particular, 3910 D-5-c], and layoff resulting from a declaration of financial exigency [see 3970]. Allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, sexual orientation, or disability are not subject to this policy, but should be brought to the Director of Human Rights, Access and Inclusion. Decisions of the president concerning administrative assignments are not appealable under this policy. A faculty member alleging retaliation is required to follow the process set forth in FSH 3810 before proceeding under this policy. The time period for appeal will begin to run upon completion of the process set forth in 3810. [rev. 7-99, 7-02, 7-07, 7-12, ed. 9-06, 6-09]

B. PROCEDURES FOR INITIATING AN APPEAL.
B-1. Before, or in addition to, filing an appeal, the faculty member should seek satisfaction informally by discussing his or her complaint with the administrator who made the decision. If the issue is not resolved by this means, the faculty member should then go to the next administrative level for redress. Reference to these discussions should be included in the request for a hearing.

B-2. A faculty member who wishes to appeal an institutional decision may do so by submitting a written request for a formal hearing. Such a request must be made within 30 calendar days after he or she receives written notice of the institutional decision, except that a 20-day period is allowed in cases of nonrenewal of fixed-term appointments [see 3900 F], a 14-day period is allowed in cases of denial of tenure or promotion, and a 15-day period is allowed in cases of dismissal for cause [see 3910 D-5-a]. If the appeal concerns salary determination, the 30-day period allowed for filing begins with receipt of notice of the dollar amount of salary assigned [see 3420 B-3, B-6]; the earlier assignment to a salary-increment category [see 3420 B-3] may be appealed by the informal means described in A-1 or may be included in the appeal after the salary amount has been fixed. In the request, the faculty member must state clearly what decision is being appealed and, briefly, the grounds on which the appeal is based. If the time deadlines contained in this provision or in any rules or procedures adopted by the Faculty Appeals Hearing Board are not complied with the appeal shall be dismissed unless the Faculty Appeals Hearing Board determines that an
attempt at informal resolution through the Ombuds Office or extraordinary circumstances justified the delay. [rev. 7-99, 2-07, ed. 7-01, 7-02, 3-14]

B-3. The request for a hearing is addressed to the chair of the Faculty Appeals Hearing Board (FAHB) (see FSH 1640.43). The FAHB chair will forward copies of the request to the provost, and other administrators concerned. The provost, or another administrator designated by the provost, will furnish the FAHB chair and the faculty member a written statement of the reasons for the administrative decision. [rev. and ren. 7-99, ed. 7-02, 7-08]

B-4. A request for a hearing does not affect the effective date of the decision being appealed. [add. 7-02]

C. THE FACULTY APPEALS HEARING BOARD. (see FSH 1640.43)

D. HEARING PROCEDURES. [ren. 7-08]

D-1. The hearing board may adopt rules of procedure from time to time. In a particular case these rules may be altered by the Board in the interest of fairness. These rules are available on request from the chair of the board and the faculty secretary. [add. 7-99, ren. 7-08]

D-2. The board will meet before the hearing to consider the nature of the parties’ expected presentations, to make decisions about the procedure that will be followed in the hearing, and to set mutually acceptable dates for the hearing, including the time and duration of the presentations. The board communicates these decisions in writing to the parties and allows each of them five working days in which to respond. The chair of the board negotiates any disputed matters. [ed. and ren. 7-99, ren. 7-08]

D-3. The chair of the board summons the faculty member and the officer (or a representative of the body) whose decision is under appeal. The chair also summons other UI employees or students to appear on the request of either party or of the board itself; the summons must set a reasonable time and place to appear and must give due notice. Persons summoned have the obligation to respond as though summoned by the president. Either party may be assisted by counsel of its choice in an advisory capacity only. Both parties are entitled to be present during the entire hearing. [rev. and ren. 7-99, ed. 7-02, ren. 7-08]

D-4. During the hearing, the faculty member’s case will be presented first, in whatever manner he or she desires: e.g., through the testimony of witnesses, submission of documents, or oral statements. The board may then question the faculty member. The administration then presents its case, followed by questions from the board. The faculty member is given an opportunity to respond and to summarize his or her case. [ed. 7-97; ren. 7-99, 7-08, ed. 7-02]

D-5. As a general rule, the board admits, rather than excludes, presentations that either party desires to make. The chair may rule against presentations that are clearly repetitive or irrelevant. [ren. 7-99, 7-08]

D-6. The faculty member and the board should know of the existence and substance of all materials on which the administration has relied in making the decision being appealed [see 3040]; there should be no means by which the substance of any charge, or other adverse information or allegation, can be kept secret from the faculty member. [ren. 7-99, 7-08, ed. 7-02]

E. PROCEDURES FOLLOWING THE HEARING. [ren. 7-08]

E-1. The findings and recommendations of the hearing board are reported promptly in writing to the faculty member, his or her departmental administrator and dean, the provost, and the president. [rev. 7-99, ed. 7-02, ren. 7-08]

E-2. The president, following receipt of the report of the hearing board, has the responsibility of promptly responding in writing—and in any case within 45 days—to the faculty member, and the hearing board, and of providing a statement of the rationale for his or her decision. [rev. 7-99, ed. 7-02, ren. 7-08]

E-3. No Appeal to the Regents. The Regents have delegated authority for personnel matters to the president (RGPIIIB2b), specifically stating that employee grievances are not appealable to the Board (RGPIIM2). [add. 7-02, ren. 7-08, rev. 4-14]

E-4. The chair of the board shall report annually to the Faculty Senate regarding the nature of the matters considered by the board during the preceding year. [add. 7-99, ren. 7-02, 7-08, ed. 6-09]