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6 **A BILL TO REVISE UW REGULATION 5-35**
7 **“FACULTY DISPUTE RESOLUTION”**
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10 **WHEREAS**, UW Regulation 5-35, “...recognizes the right of faculty to express
11 differences of opinion and to seek fair and timely resolutions of disputes” and “...establishes an
12 internal process to provide University faculty a prompt and efficient review and resolution of
13 disputes”; and
14

15 **WHEREAS**, UW Regulation 1-1, Section III.A., currently defines faculty as, “(a) all
16 persons having professional ranks (professor, associate professor, assistant professor, or
17 instructor), (b) librarians of all ranks, and (c) archivists of all ranks”; and
18

19 **WHEREAS**, UW Regulation 1-1, Section III.A. currently defines academic
20 professionals as, “lecturers of all ranks, except as noted below; (b) research scientists of all
21 ranks; (c) extension educators of all ranks; and (d) postdoctoral associates”; and
22

23 **WHEREAS**, the current definitions of faculty and academic professionals exclude
24 academic professionals from utilizing the informal faculty dispute resolution process; and
25

26 **WHEREAS**, the current definitions of faculty and academic professionals exclude
27 academic professionals from serving on the Faculty Dispute Resolution Panel as described in
28 UW Regulation 5-35, Section 6; and
29

30 **WHEREAS**, all Academic Personnel at the University of Wyoming should be able to
31 utilize the informal faculty dispute resolution process; and
32

33 **WHEREAS**, all tenured faculty, extended-term academic professionals, extended-term
34 archivists, and extended-term librarians should be eligible to serve as part of the Faculty Dispute
35 Resolution Panel; therefore
36

37 **BE IT ENACTED** by the Faculty Senate that UW Regulation 5-35 be amended as
38 presented in the attached addenda.

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41 **UW REGULATION 5-35**

42 **Faculty Academic Personnel Dispute Resolution**

43
44 **1. POLICY**

45
46 The University recognizes the right of faculty academic personnel to express differences of
47 opinion and to seek fair and timely resolutions of disputes. It is the policy of the University that
48 disputes shall be settled informally if possible and that all persons have the obligation to
49 participate in good faith in the informal dispute resolution process before resorting to formal
50 grievance procedures. The University encourages open communication and resolution of
51 disputes through the informal processes described in this University Regulation. The University
52 will not tolerate reprisals, harassment or discrimination against any person because of
53 participation in this process. This regulation establishes an internal process to provide University
54 faculty academic personnel a prompt and efficient review and resolution of disputes. This
55 regulation is the sole method for resolution of disputes as defined herein or appeals from
56 terminations resulting from financial exigency.
57

58
59 **2. ADMINISTRATIVE RESPONSIBILITY**

60
61 All University administrators shall inform, listen to, and counsel with faculty academic personnel
62 concerning disputes arising in areas over which the administrators have supervisory or other
63 responsibilities, and shall to the best of their ability contribute to timely resolution of any dispute
64 taken to them.
65

66 **3. DEFINITIONS**

67
68 **A. Dispute:**

69
70 A claim which occurs when a faculty member any academic personnel considers that
71 any condition of employment, including actions or inactions by others, is unjust,
72 inequitable, contrary to University regulations or policies, or a hindrance to effective
73 faculty performance.
74

75 **1. EXCLUSIONS:**

76
77 Civil rights complaints properly addressed under the process provided in UW
78 Regulations ; complaints against the President which are to be directed to the
79 attention of the President of the Board of Trustees; and matters subject to review
80 pursuant to procedures contained in UW Regulation 5-801, "Procedures for
81 Dismissal of Faculty Members."
82

83 **2. LIMITATIONS ON SCOPE:**

84
85 With respect to matters involving reappointment, evaluation, promotion and the
86 granting of tenure, the dispute shall be restricted to a claimed failure to follow
87 those procedures contained in UW Regulation 5-803, "Reappointment Tenure and
88 Promotion Procedures for University Faculty."

- 89
90 a. **Faculty Member Academic Personnel:** A person appointed to and
91 serving in a faculty or academic professional position as defined in UW
92 Regulation 1-1(C)(1) III.A.
93 b. **Parties:** The parties to a formal grievance proceeding as described in
94 section 8.C. shall be the complaining faculty member, any other persons
95 whose action or inaction caused or contributed to the incident or
96 conditions which gave rise to the dispute, and any administrator whose
97 participation may be required in implementing a resolution of the dispute.
98

99 **4. FACULTY CONCILIATOR**

100
101 A Faculty Conciliator shall be appointed by the President from a list of three or more persons
102 nominated by the Faculty Senate, and shall serve at the pleasure of the President. The President,
103 in consultation with the Executive Committee of the Faculty Senate shall establish the term and
104 duties of the Faculty Conciliator **or substitute Faculty Conciliator if required under section 8.B.**,
105 and shall periodically review the functions of the office. The President shall provide necessary
106 financial support for the Faculty Conciliator. The Faculty Conciliator shall administer the
107 informal dispute resolution process set forth in this regulation, and shall be available to all parties
108 to facilitate the informal resolution of disputes.
109

110 **5. HEARING OFFICER**

111
112 One or more Hearing Officers shall be nominated by the President who shall make final
113 appointments after consultation with the Executive Committee of the Faculty Senate. Hearing
114 Officers shall assist in the resolution of disputes pursuant to this regulation. The role of the
115 Hearing Officer shall be specified in the guidelines for conduct of hearings. The Hearing
116 Officers shall not decide disputes.
117

118 **6. FACULTY DISPUTE RESOLUTION PANEL**

119
120 A Faculty Dispute Resolution Panel shall be established as follows. The Faculty Dispute
121 Resolution Panel shall consist of eighteen (18) members elected for three-year staggered terms
122 by **mail** ballot of the Faculty, from nominations made by the Faculty Senate. Faculty Dispute
123 Resolution Panel eligibility shall be limited to **full-time, tenured faculty, extended-term academic**
124 **professionals, extended-term librarians, and extended term archivists** who hold no administrative
125 assignment, with no more than six (6) members to be elected from the same college of the
126 University. A pool of alternates for the Faculty Dispute Resolution Panel shall be established,
127 comprised of nominees who are not elected; if needed, alternates shall be selected from the pool,
128 with recipients of the greatest number of votes being selected first.

129 **7. TIME LIMITS**

130
131 The Faculty Conciliator or the Hearing Officer in the interest of arriving at a just resolution may
132 extend the time limits prescribed by this regulation. All parties shall be immediately notified of
133 any change in time limits. In calculating periods of time of less than eleven (11) days, Saturdays,
134 Sunday, University holidays and legal holidays shall be excluded.

135
136 **8. PROCEDURE**

137
138 **A. Step One -- Informal Resolution**

139
140 Faculty members should normally attempt to resolve any dispute informally and
141 promptly through appropriate discussion with the persons whose actions have given rise
142 to the dispute and, if necessary, through informal consultation with an appropriate
143 administrator or administrators.

144
145 **B. Step Two -- Consultation with the Faculty Conciliator**

146
147 Any faculty member with an unresolved dispute must consult with the Faculty
148 Conciliator before proceeding to Step 3 of the grievance procedure as described below at
149 paragraph 8.C. The Faculty Conciliator shall be available to assist all parties in attempts
150 to resolve a dispute informally, prior to submission for formal resolution pursuant to
151 paragraph 8.C. The Faculty Conciliator may require any person, including administrators
152 at any level, to participate in any meeting called by the Faculty Conciliator for the
153 purpose of effecting informal resolution of a dispute.

154
155 In the event that the President is named as a party in a complaining faculty member's
156 dispute, or in circumstances in which the President may be involved in a dispute as a
157 witness, the responsibilities assigned to the President in this section shall be assumed by
158 the President of the Board of Trustees, who shall be recused from participation in any
159 Trustee review of the matter.

160
161 In the event that the Faculty Conciliator is named as a party in a complaining faculty
162 member's dispute, or in circumstances in which the Faculty Conciliator may be involved
163 in a dispute as a witness, the President may, upon request of the complaining faculty
164 member and in consultation with the Executive Committee of the Faculty Senate, appoint
165 a substitute Faculty Conciliator for purposes of that dispute.

166
167 No reference shall be made in a formal grievance proceeding to whether or not the parties
168 engaged in an unsuccessful informal resolution proceeding involving the same dispute.
169 No statements made by the parties in the course of an unsuccessful informal resolution
170 proceeding and no documents specially prepared by the parties for use in such a
171 proceeding shall be admissible in a formal grievance proceeding involving the same
172 dispute.

173

174 Consideration in an informal resolution proceeding of statements, documents and other
175 evidence which were made or existed prior to the informal proceeding shall not preclude
176 admission of those statements, documents and other evidence in a formal grievance
177 proceeding.

178
179 Participation of the Faculty Conciliator in informal resolution efforts shall be for the
180 purpose of effecting informal resolution of disputes, and the Faculty Conciliator shall not
181 testify in any formal grievance proceeding relating to a dispute in which the Faculty
182 Conciliator has attempted to effect an informal resolution.

183
184 If the dispute is not resolved within twenty days after initiation of consultation with the
185 Faculty Conciliator, the Faculty Conciliator shall notify the parties that the period for
186 informal resolution is terminated. Within five days after receipt of the notice, any party
187 may commence a formal dispute by submitting to the Faculty Conciliator a written
188 statement which must contain:

- 189
190 1) A brief narrative of the facts giving rise to the dispute;
191
192 2) A designation of the parties involved; and
193
194 3) A statement of the remedy requested.

195
196 If no party commences a formal dispute within the time provided, the Faculty Conciliator
197 shall dismiss the dispute.

198
199 Not less than five days after receipt of a written statement from a party commencing a
200 formal dispute, the Faculty Conciliator shall transfer the matter to a Hearing Officer, who
201 shall be selected at the discretion of the Faculty Conciliator from the list of Hearing
202 Officers appointed by the President.

203
204 **C. Step Three -- Formal Resolution**

205
206 The Hearing Officer shall select a Hearing Committee of three members by lot from the
207 full Faculty Dispute Resolution Panel. The Committee shall be comprised of no more
208 than two members from the same college.

209
210 The Hearing Officer shall select the Hearing Committee within ten days of receipt of the
211 formal dispute by the Hearing Officer. The Hearing Officer shall convene the Hearing
212 Committee no later than fifteen days after receipt of the formal dispute by the Hearing
213 Officer. The Hearing Committee shall select a hearing chairperson and shall schedule a
214 hearing to take place not later than twenty days after the Hearing Committee is first
215 convened. The Hearing Committee shall hear the dispute in accordance with the attached
216 "Hearing Guidelines", shall compile a hearing record and shall prepare written findings
217 and recommendations within fifteen days after completion of the hearing. The Hearing
218 Committee's recommendations may include a proposed remedy. The Hearing Committee
219 shall forward a copy of its written findings and recommendations to the parties, to the

220 Vice President for Academic Affairs, to any affected Dean, and to the President within
221 three days after those findings and recommendations have been completed.

222
223 At any time after commencement of a formal dispute, the Hearing Officer may suspend
224 or terminate the formal proceedings to facilitate further efforts by the parties to resolve
225 the dispute informally, if so requested by the parties and the Faculty Conciliator. The
226 Faculty Conciliator may then assist the parties in further efforts to resolve the dispute
227 informally. The Hearing Officer also may, but is not required to, terminate the formal
228 dispute resolution proceedings at any time after they are commenced if so requested by
229 the faculty member who initiated the formal grievance proceedings.

230
231 **D. Parties' Responses to Hearing Committee Findings**

232
233 Within ten days after receipt of the Hearing Committee's written findings and
234 recommendations, any party may submit a written statement of position to the President,
235 stating the party's position with respect to the Hearing Committee's decision and any
236 grounds upon which the party believes the President should accept, reject or suggest
237 modification of the Hearing Committee's findings and recommendations.

238
239 **E. Presidential Action**

240
241 After receiving the Hearing Committee's written findings and recommendations and any
242 statements of the parties submitted pursuant to paragraph 8.D. the President shall act
243 upon the dispute in one of the following ways:

244
245 1. The President may accept the Hearing Committee's findings and
246 recommendations and remedy (if the Hearing Committee proposed one). If the
247 Hearing Committee did not propose a remedy consistent with its findings, the
248 President shall devise a remedy consistent with the Hearing Committee's findings
249 and recommendations. If proceeding under this paragraph 8.E 1., the President
250 shall, within thirty days after the President's receipt of the Hearing Committee's
251 findings and recommendations, provide a written statement to all parties involved,
252 to the Vice President for Academic Affairs, to the Hearing Committee, and to any
253 affected Dean, notifying them of the President's acceptance of the Hearing
254 Committee's findings and recommendations and the remedy to be implemented.

255
256 2. If the President concludes that a policy question is involved or additional
257 consideration of the facts is warranted, the President may, within thirty days after
258 the President's receipt of the Hearing Committee's findings and recommendations,
259 remand the case to the Hearing Committee with a statement of the reasons for the
260 remand. The President shall also provide a copy of the statement accompanying
261 the remand of the case to all parties involved and they shall have five (5) days to
262 comment in writing to the Hearing Committee. Any party to a dispute may attend
263 any meeting of the President or President's representative with the Hearing
264 Committee at which that dispute is discussed. The Hearing Committee shall report
265 its reconsideration to the President within fifteen days of the remand; the

266 President shall then act upon the Hearing Committee's reconsidered findings and
267 recommendations pursuant to this section 8.E.
268

269 3. The President may disagree with the Hearing Committee's
270 recommendation in whole or in part; if so, the President shall state
271 recommendations and reasons therefore in writing to the Hearing Committee, to
272 the Vice President for Academic Affairs, to all parties and to the deans of the
273 affected units. The President shall provide this written statement to the recipients
274 designated above within thirty days after the President's receipt of the Hearing
275 Committee's findings and recommendations, and all recipients of the President's
276 statement may submit a written response to it to the President within fifteen days
277 after their receipt of the President's statement. Within twenty days after sending
278 the statement of recommendations, and reasons to the Hearing Committee and to
279 the parties, the President shall present the President's recommendations and
280 reasons (and any responses thereto as received by the President) to, the Board of
281 Trustees for final action. The Board of Trustees may elect to have access to either
282 the record of the proceedings or a summary of the record prepared by the Hearing
283 Officer. Within sixty days after its receipt of the President's statement of
284 recommendations and reasons (and any responses thereto), the Board of Trustees
285 shall render and announce to the parties and to the President a decision on the
286 dispute. The Board of Trustees may accept or reject the President's
287 recommendations in whole or in part, or may remand the matter to the President
288 for further proceedings.
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292 Source:
293 University Regulation, Revision 1; adopted 7/17/08 Board of Trustees meeting
294 Revisions adopted 11/15/13 Board of Trustees meeting