



UNIVERSITY OF WYOMING REGULATIONS

Subject: Academic Personnel Dispute Resolution
Number: UW Regulation 2-2

I. PURPOSE

The following Regulation outlines the procedures related to certain disputes, as defined below.

II. DEFINITIONS

Academic Personnel/Employee: For purposes of this Regulation, Academic Personnel includes ~~non-tenure track academic personnel, academic personnel on a fixed term contract, tenure track faculty, extended term academic professionals, and tenured faculty~~ as defined in UW Regulation ~~5-12-1~~.

Administrator: shall mean Academic Administrators as defined in UW Regulation ~~2-85-804~~, "Appointment, Evaluation and Removal of Academic Administrators."

Dispute: A claim ~~which occurs when any academic personnel considers that any condition of employment, including actions or inactions by others, is unjust, inequitable, contrary to University regulations or policies, or a hindrance to effective faculty performance. in which an Academic Employee believes that existing regulations, policies, and/or procedures have been violated, misapplied, or misinterpreted and the alleged violation, misapplication, or misinterpretation has adversely affected the Faculty Member's professional or academic capacity. The purpose of the process outlined below is to determine whether appropriate procedures were followed, not to reevaluate the merits of any decisions that were made.~~ Disputes addressed by this Regulation do not include the merits of decisions related to:

- A. Annual Performance Reviews. For these types of claims, the Academic Employee may submit a written statement to the applicable dean or director. The statement will be added to the Academic Employee's personnel file.
- B. Appointment, Evaluation, and Removal of Academic Administrators. For claims related to appointment, evaluation and removal of Academic Administrators see UW Regulation ~~5-8042-8~~, "Appointment, Evaluation and Removal of Academic Administrators."

- 34 C. Claims related to Settlement Amounts, Attorney Fees or Any Other Types of
35 Fees, Costs, or Assessments.
- 36 D. Compensation. Compensation and benefits are governed by UW Regulation ~~5-~~
37 ~~1732-3~~, “Regulations Governing Vacation, Sick Leave, and Compensation for
38 Faculty and University Officers” and the Employee Handbook.
- 39 E. Discrimination and Harassment. For claims related to discrimination see UW
40 Regulation ~~1-54-2~~, “~~Civil Rights Discrimination~~Discrimination and
41 Harassment.” ~~For claims related to Harassment, Hostile Environment, and~~
42 ~~Retaliation (non-Protected Class), see Presidential Directive 4-2016-1,~~
43 ~~“Investigative Process for Complaints of Harassment, Hostile Environment,~~
44 ~~and Retaliation (non-Protected Class).”~~
- 45 F. Dismissal. For claims related to dismissal see UW Regulation ~~5-8012-6~~,
46 “Dismissal of Academic Personnel.”
- 47 G. Post-Tenure Review. For claims related to post-tenure review see UW
48 Regulation ~~5-8082-10~~, “Post-Tenure Review Policy.”
- 49 H. Reappointment, Evaluation, Promotion, and Granting of Tenure. For claims
50 related to reappointment, evaluation, promotion and the granting of tenure see
51 UW Regulation ~~5-8032-7~~, “Tenure and Promotion Procedures for University
52 Faculty.”
- 53 I. Sexual Misconduct. For claims related to sexual misconduct see UW
54 Regulation ~~1-2564-3~~, “~~Policies and Procedures Governing Title IX and~~ Sexual
55 ~~Misconduct.~~”
- 56 J. Violence in the Workplace. For claims related to violence in the workplace see
57 UW Regulation ~~1-444-4~~, “Violence in the Workplace.”

58 **Faculty Conciliator:** An individual appointed by the President from a list of three or more
59 persons nominated by the Faculty Senate, who serves at the pleasure of the President. The
60 President, in consultation with the Executive Committee of the Faculty Senate shall
61 establish the term and duties of the Faculty Conciliators or substitute Faculty Conciliators
62 if required under section ~~8-B-V.C.~~, and shall periodically review the functions of the office.
63 The Office of Academic Affairs shall provide necessary financial support for the Faculty
64 Conciliator.

66 **Faculty Dispute Resolution Panel:** The Faculty Dispute Resolution Panel shall consist of
67 eighteen (18) members elected for three-year staggered terms by ballot of the Faculty, from

68 nominations made by the Faculty Senate. Faculty Dispute Resolution Panel eligibility shall
69 be limited to tenured faculty and academic personnel on a fixed or extended term who hold
70 no administrative assignment, with no more than six (6) members to be elected from the
71 same college of the University. A pool of alternates for the Faculty Dispute Resolution
72 Panel shall be established, comprised of nominees who are not elected; if a member of the
73 Faculty Dispute Resolution Panel is removed or leaves the Panel, the alternate with the
74 greatest number of votes will automatically fill the term of the departing member.
75

76 **Hearing Committee:** The three-member committee selected in the manner set forth herein
77 to resolve a dispute under Step Three of this Regulation.

78 **Hearing Officer:** One or more individuals nominated by the President who, after
79 consultation with the Executive Committee of the Faculty Senate, shall make final
80 appointments. Hearing Officers shall assist in the resolution of Disputes pursuant to this
81 Regulation.

82 **Parties:** The parties to a hearing as described in Section ~~(IX)(C)~~ (VII)(D) shall be the
83 complaining Academic Employee (hereinafter “Complainant”), any other persons whose
84 action or inaction caused or contributed to the incident or conditions which gave rise to the
85 Dispute (hereinafter “Respondent”), and any Administrator whose participation may be
86 required in implementing a resolution of the Dispute.

87 **Time Limits:** ~~In calculating periods of time, Saturdays, Sunday, University holidays and~~
88 ~~legal holidays shall be excluded.~~ The Faculty Conciliator or the Hearing Officer, in the
89 interest of arriving at a just resolution, may extend the time limits prescribed by this
90 regulation until the final Hearing Committee convenes. All parties shall be immediately
91 notified of any change in time limits. In calculating periods of time, Saturdays, Sunday,
92 University holidays and legal holidays shall be excluded.
93

94 III. POLICY

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96 The University recognizes the right of Academic Personnel to express differences of
97 opinion and to seek fair and timely resolutions of disputes. It is the policy of the University
98 that disputes shall be settled informally if possible and that all persons have the obligation
99 to participate in good faith in the informal dispute resolution process before resorting to
100 formal grievance procedures. The University encourages open communication and
101 resolution of disputes through the informal processes described in this University
102 Regulation. The University will not tolerate reprisals, harassment or discrimination against
103 any person because of participation in this process. This regulation establishes an internal
104 process to provide University Academic Personnel a prompt and efficient review and

105 resolution of disputes. This regulation is the sole method for resolution of disputes as
106 defined herein or appeals from terminations resulting from financial exigency.

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108 **IV. ADMINISTRATIVE RESPONSIBILITY**

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110 All University Administrators shall inform, listen to, and counsel with Academic Personnel
111 concerning disputes arising in areas over which the Administrators have supervisory or
112 other responsibilities, and shall to the best of their ability contribute to timely resolution of
113 any dispute taken to them.

114
115 **V. STEP ONE – INFORMAL RESOLUTION**

116 **A.** It is the policy of the University that Disputes shall be settled informally, if possible,
117 and that Academic Personnel must participate in good faith in ~~the informally~~
118 ~~resolving the~~ dispute ~~resolution process~~ before continuing onto the steps outlined
119 below.

120 ~~**F.** Academic Employees must attempt to resolve any Dispute informally, promptly,~~
121 ~~and in good faith through appropriate discussion with the persons whose actions~~
122 ~~have given rise to the Dispute.~~

123 ~~**G.** If these discussions are not successful, the Academic Employee must then attempt~~
124 ~~to resolve the Dispute through discussion with the appropriate dean or director.~~

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126 **IX.VI. STEP TWO – CONSULTATION WITH THE FACULTY CONCILIATOR**

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128 **A.** ~~An Academic Employee Personnel~~ must demonstrate to the Faculty Conciliator that
129 he/she ~~has participated in a reasonable~~ ~~has attempted attempt~~ to resolve the Dispute
130 informally, ~~including participating in appropriate discussion with the persons~~
131 ~~whose actions have given rise to the Dispute and a discussion with the appropriate~~
132 ~~supervisor~~ under Step One ~~or provide an appropriate reason for not doing so.~~

133 **B.** ~~An Academic Employee Personnel~~ must consult with the Faculty Conciliator
134 before proceeding to Steps Three or Four.

135 ~~**C.A.** For a Dispute to be considered, the Academic Employee must submit to the Faculty~~
136 ~~Conciliator a written statement which must contain the following:~~

137 ~~**0.1.** A brief narrative of the facts giving rise to the Dispute;~~

138 ~~**0.1.** A statement detailing the nature of the Dispute;~~

~~0.1. A designation of the Parties involved; and~~

~~0.1. A statement of the remedy and/or resolution requested.~~

H.C. The Faculty Conciliator shall be available to assist all Parties in good faith attempts to resolve a Dispute informally, prior to submission to the Hearing Committee. The Faculty Conciliator may require any person, including Administrators at any level, to participate in any meeting called by the Faculty Conciliator for the purpose of effecting informal resolution of a Dispute.

In the event that the Faculty Conciliator is named as a party in a complaining Academic Employee's Dispute, or in circumstances in which the Faculty Conciliator may be involved in a Dispute as a witness, the President may, upon request of the complaining Academic Employee and in consultation with the Executive Committee of the Faculty Senate, appoint a substitute Faculty Conciliator for purposes of that dispute. If for any reason the President cannot act under this Regulation, the President shall appoint a neutral third-party, not in the same college as any Party, to act in the President's stead.

D. No statements made by the Parties in the course of the conciliation and no documents specially prepared by the Parties for use in the conciliation shall be admissible in Steps Three and Four. Statements, documents and other evidence which were made or existed prior to the conciliation shall not preclude admission of those statements, documents and other evidence in Steps Three and Four.

~~**I.** No reference shall be made in Steps Three and Four to whether or not the parties engaged in an unsuccessful informal resolution proceeding involving the same dispute.~~

J.E. Participation of the Faculty Conciliator in informal resolution efforts shall be for the purpose of effecting informal resolution of Disputes, and the Faculty Conciliator may not testify in Step Three.

K.F. If the Dispute is not resolved within twenty (20) days after initiation of consultation with the Faculty Conciliator, the Faculty Conciliator shall notify the Parties in writing that the period for informal resolution is terminated.

G. Within five (5) days after receipt of the termination notice, any party may commence to Step Three by submitting to the Faculty Conciliator, a written request to begin the Step Three process, as well as a written statement which must conform to the statement described in Section (V)(B)(3) herein, For a Dispute to be

172 ~~considered, the Academic Employee must submit to the Faculty Conciliator a~~
173 ~~written statement which must contain the following:~~

174 ~~1. A brief statement detailing the nature and narrative of the facts giving rise to~~
175 ~~the Dispute;~~

176 ~~—A statement detailing the nature of the Dispute;~~

177 ~~2. A designation of the Parties involved; and~~

178 ~~3. A statement of the remedy and/or resolution requested.~~

179 ~~L. —as well as a written request to begin the Step Three process.~~

180 ~~M.H.~~ Within five (5) days after receipt of the written statement, the Faculty Conciliator
181 shall transfer the matter to a Hearing Officer selected as set forth below. If neither
182 party submits a written statement within the time provided, the Faculty Conciliator
183 shall dismiss the Dispute, and report the dismissal to both Parties.

184 ~~X.~~VII. STEP THREE – SUBMISSION TO THE HEARING COMMITTEE

185
186 The Hearing Committee shall hear the Dispute in accordance with the Hearing Procedures
187 outlined below.

188 189 A. ~~Convening of~~ Committee Selection

190
191 1. The Hearing Officer shall select a Hearing Committee (hereinafter “HC”) of
192 three (3) members by lot from the full Faculty Dispute Resolution Panel. The
193 Committee shall be comprised of no more than two (2) members from the same
194 college or unit under the supervision of the Provost and Vice President of
195 Academic Affairs.

196
197 2. The Hearing Officer shall select the HC within ten (10) days of receipt of the
198 written statement by the Hearing Officer. ~~In the event of challenges to one (1)~~
199 ~~or more members of the HC, this meeting shall be held within twenty (20) days~~
200 ~~of the receipt of the written statement.~~

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202 3. The Hearing Officer shall convene the HC no later than fifteen (15) days after
203 providing notification of the composition of the Hearing Committee~~receipt of~~
204 the written statement by the Hearing Officer. In the event of challenges to one
205 (1) or more members of the HC, this meeting shall be held within twenty (20)

206 days of providing the notification of the composition of the Hearing Committee.

207 The HC shall select a hearing chairperson at its first meeting.

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209 **B. Challenges**

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211 The Complainant or any Respondent shall have the right to challenge any member
212 of the HC for cause. Either party is limited to two challenges and shall submit the
213 basis for the challenge in writing to the Hearing Officer within three days of the
214 notification of the composition of the Hearing Committee. The Hearing Officer
215 then has three days to decide whether to grant the challenge. In the case of
216 disqualification, absence, or other inability to serve, replacement HC members shall
217 be selected by lot; first from the remaining Faculty Dispute Resolution Panel
218 members, then, if necessary, from the pool of alternates.

219
220 ~~The Complainant or any Respondent shall have ten (10) days after receiving~~
221 ~~notification of the composition of the Hearing Committee to submit their challenge~~
222 ~~of any member of the HC to the Hearing Officer.~~

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224 **C. Jurisdiction**

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226 The HC shall decide whether to accept jurisdiction or whether the Dispute is
227 frivolous, repetitive, involves harmless error, or is otherwise a Dispute beyond the
228 authority of the HC to consider under this Regulation within fifteen (15) days after
229 being convened by the Hearing Officer, ~~and shall consider whether the Dispute is~~
230 ~~frivolous, repetitive, involves harmless error, or is otherwise a Dispute beyond the~~
231 ~~authority of the HC to consider under this Regulation.~~ If the HC concludes that it
232 ~~does not have jurisdiction over the dispute cannot consider the Dispute,~~ it shall
233 notify all Parties, in writing, of the reasons for that conclusion, and immediately
234 dismiss the matter. If either Party disagrees with the dismissal, they may submit a
235 written statement to the President pursuant to Section VIII.

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237 If accepting jurisdiction of the dispute, the HC shall meet to conduct a hearing
238 within ~~twenty (20)~~fifteen (15) days after ~~being convened by the Hearing~~
239 ~~Officer issuing a jurisdictional decision.~~

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241 **D. Proceedings**

242 The following guidelines apply throughout the hearing:
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1. All documents shall be provided to the opposite side through the Hearing Officer at least ten (10) days prior to the hearing. In the discretion of the HC, documents not so disclosed may be received in evidence for good cause shown and in the interest of justice.
 2. The hearing shall be held in confidence unless the Complainant requests, in writing, a public hearing. In that event, the HC may, at its discretion, allow a public hearing.
 3. The Parties have the option of being represented by counsel, or by any other individual. If a Party chooses to be represented by counsel, he/she is responsible for all costs of that counsel. University Officers or other designated representatives of the University may be represented by the Office of General Counsel.
 4. The HC shall determine the order of proof, is entitled to conduct the questioning of witnesses, and shall determine the relevance and admissibility of evidence and testimony.
 5. The HC shall attempt to resolve factual disputes by receiving witness testimony and other relevant evidence offered by the Parties.
 6. Parties or their representatives, if any, have the right to question all witnesses testifying in connection with the hearing in person. At the sole discretion of the HC, testimony may take place via electronic media or be taken by deposition upon good cause shown.
 7. The HC may direct the Parties to produce evidence on specific issues and may call witnesses and introduce evidence on its own motion.
 8. All evidence and testimony considered by the HC shall be part of the hearing record. All HC decisions shall be based solely on the hearing record. The burden of proof that an existing regulation, policy, and/or procedure was violated, misapplied, or misinterpreted and the alleged violation, misapplication, or misinterpretation adversely affected the Complainant's professional or academic capacity rests at all times with the Complainant and shall be satisfied only by substantial evidence in the record considered as a whole.

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9. All evidence and testimony relevant to the dispute is admissible. The Parties may object to evidence on grounds of relevance and surprise only. All decisions regarding the admissibility of evidence and testimony shall be made by the HC in its sole discretion. If the HC declines to hear some evidence or testimony, it will be accepted for purposes of the file to preserve Complainant's appeal, but specifically excluded from the record used by the HC for its decision.
 10. The HC may set reasonable time limits upon the Parties and the hearing for the presentation of the Parties' evidence and testimony in its sole discretion.
 11. After consultation with the Parties and the Hearing Officer, the HC may grant reasonable continuances of the deadlines herein in its sole discretion, especially when required in the interests of justice to consider newly presented evidence for which a Party could not reasonably have been prepared.
 12. The HC shall not be bound by formal rules of procedure or evidence otherwise applicable in civil litigation. Notwithstanding any language in this Regulation to the contrary, legally recognized privilege and confidentiality protections shall apply to the proposed use of any evidence and testimony.
 13. The Provost and Vice President for Academic Affairs (or designee) shall secure the cooperation of witnesses if the witness is a University employee and insofar as feasible. However, it is the responsibility of each Party to call, notify, and arrange for their own witnesses' testimony.
 14. Every administrative office of the University shall make available to the Complainant and the Respondent any relevant requested documents over which the University has control, and which are not privileged from disclosure by law.
 15. A written verbatim record of the hearing shall be produced, the expense of which shall be borne by the University.

316 **E. Order of Proceedings**

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318 The order of proceedings shall, to the extent practicable, conform to the following
319 pattern:

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321 1. The Parties shall have the opportunity to present summary opening statements.
322 The Complainant shall present evidence and testimony supporting the written
323 Dispute.

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2. The Respondent shall present evidence and testimony in opposition to the written Dispute.
 3. The HC shall permit the Parties such rebuttal evidence as is not cumulative, repetitious, or irrelevant.
 4. The Parties shall have the opportunity to present closing arguments.
 5. The HC may vary the order of proceedings in its sole discretion if circumstances warrant.

336 **F. Recommendation**

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338 Within ~~eighteen (18)~~ twenty (20) days of the close of hearing, the HC shall notify
339 the Parties, the Provost and Vice President for Academic Affairs, and any affected
340 Dean, in writing, of its recommendations, findings and rationale in support of its
341 decision. These recommendations must directly relate to the Dispute. The official
342 record upon which the decision was based shall be made available to the Parties
343 upon their request.
344

345 ~~XI.VIII.~~ STE
346 **P FOUR – WRITTEN STATEMENT TO THE PRESIDENT**

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348 **A.** Within ten (10) days after receipt of the Hearing Committee's written findings and
349 recommendations, any Party may submit a written statement of position to the
350 President, stating the Party's position with respect to the Hearing Committee's
351 decision and any grounds upon which the Party believes the President should
352 accept, reject or suggest modification of the Hearing Committee's findings and
353 recommendations.

354 **B.** The President shall provide a decision within twenty (20) days of receiving the
355 written statement to review or the Hearing Committee's written findings and
356 recommendations if no statement is provided.

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358 **B.C.** The decision of the President shall be final and binding upon the Parties.
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360 ~~XII.IX.~~ **ROLE OF THE HEARING OFFICER.**

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362 All Disputes shall be submitted in writing to the Hearing Officer as outlined above, who
363 shall transmit a copy to the Parties named in the statement initiating the dispute
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Trustees AA/SA Committee endorsed 2-22-19
Trustees Regulation Committee endorsed 2-27-19
Revisions as agreed by GC and FSExec 9-30-19
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364 proceedings. The Hearing Officer shall be responsible for coordinating all prehearing
365 matters such as production of documents and requests for information. The Hearing
366 Officer shall schedule all hearings and logistical arrangements for the location of meetings
367 and hearings, and inform the Parties and the HC of all proceedings and issues relevant to
368 the efficient administration of the Dispute.

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370 The Hearing Officer shall preside over hearings, but shall not vote on the disposition of the
371 case. The Hearing Officer shall consult with and advise the members of the HC on all
372 matters of hearing procedure, including the admissibility of evidence, the general conduct
373 of the hearing, the order or presentation of evidence, examination and cross-examination
374 of witnesses, oral arguments, and post-hearing briefs, if any. The Hearing Officer shall
375 also arrange for a record of the hearing, including findings and any recommendations made
376 by the Committee and a summary of evidence on which such findings are based. Ex parte
377 evidentiary hearings and ex parte communications with HC members will not be permitted.

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379 The Hearing Officer may confer with the HC during its private deliberations and provide
380 it with assistance in drafting its decision.

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382 At any time during or after the hearing, the Hearing Officer may suspend or terminate the
383 hearing to facilitate further efforts by the Parties to resolve the dispute informally, if so
384 requested by the Parties and the Faculty Conciliator. The Hearing Officer also may, but is
385 not required to, terminate the hearing if so requested by the Complainant. Any such
386 dismissal shall be deemed and proceed in the same manner as a complete and final decision
387 regarding the Dispute.

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389 It is the responsibility of the Hearing Officer to ensure that all Time Limits are enforced
390 and that all procedures set forth in this Regulation are followed.

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394 **Responsible Division/Unit:** Office of the Provost and Vice President for Academic Affairs

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396 **Source:** None

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398 **Links:** <http://www.uwyo.edu/regs-policies>

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400 **Associated Regulations, Policies, and Forms:** None

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402 **History:**

403 University Regulation 35, Revision 1; adopted 7/17/2008 Board of Trustees meeting

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404 Revisions adopted 11/15/2013 Board of Trustees meeting
405 Revisions adopted 7/13/2016 Board of Trustees meeting
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407