
**A BILL TO REVISE UW REGULATION 5-35
“FACULTY DISPUTE RESOLUTION”**

WHEREAS, UW Regulation 5-35, “...recognizes the right of faculty to express differences of opinion and to seek fair and timely resolutions of disputes” and “...establishes an internal process to provide University faculty a prompt and efficient review and resolution of disputes”; and

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

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

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

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

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

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

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

AUTHENTICATION: *The foregoing Faculty Senate Bill 338, duly adopted by the Faculty Senate of the University of Wyoming under date of April 25, 2016, is hereby transmitted to the President of the University of Wyoming for review in accordance with UW Regulations.*

*Donal O'Toole
Secretary of the Faculty Senate*

Dated this _____ day of May, 2016

UW REGULATION 5-35
Faculty Academic Personnel Dispute Resolution

1. POLICY

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

2. ADMINISTRATIVE RESPONSIBILITY

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

3. DEFINITIONS

A. Dispute:

A claim which occurs when ~~a faculty member~~ **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.

1. EXCLUSIONS:

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

2. LIMITATIONS ON SCOPE:

With respect to matters involving reappointment, evaluation, promotion and the granting of tenure, the dispute shall be restricted to a claimed failure to follow

47 those procedures contained in UW Regulation 5-803, "Reappointment Tenure and
48 Promotion Procedures for University Faculty."
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- 50 a. **Faculty Member Academic Personnel:** A person appointed to and
51 serving in a faculty or academic professional position as defined in UW
52 Regulation 1-1(C)(1) III.A.
53 b. **Parties:** The parties to a formal grievance proceeding as described in
54 section 8.C. shall be the complaining faculty member, any other persons
55 whose action or inaction caused or contributed to the incident or
56 conditions which gave rise to the dispute, and any administrator whose
57 participation may be required in implementing a resolution of the dispute.
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59 4. FACULTY CONCILIATOR

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61 A Faculty Conciliator shall be appointed by the President from a list of three or more persons
62 nominated by the Faculty Senate, and shall serve at the pleasure of the President. The President,
63 in consultation with the Executive Committee of the Faculty Senate shall establish the term and
64 duties of the Faculty Conciliator or substitute Faculty Conciliator if required under section 8.B.,
65 and shall periodically review the functions of the office. The President shall provide necessary
66 financial support for the Faculty Conciliator. The Faculty Conciliator shall administer the
67 informal dispute resolution process set forth in this regulation, and shall be available to all parties
68 to facilitate the informal resolution of disputes.
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70 5. HEARING OFFICER

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72 One or more Hearing Officers shall be nominated by the President who shall make final
73 appointments after consultation with the Executive Committee of the Faculty Senate. Hearing
74 Officers shall assist in the resolution of disputes pursuant to this regulation. The role of the
75 Hearing Officer shall be specified in the guidelines for conduct of hearings. The Hearing
76 Officers shall not decide disputes.
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78 6. FACULTY DISPUTE RESOLUTION PANEL

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80 A Faculty Dispute Resolution Panel shall be established as follows. The Faculty Dispute
81 Resolution Panel shall consist of eighteen (18) members elected for three-year staggered terms
82 by mail ballot of the Faculty, from nominations made by the Faculty Senate. Faculty Dispute
83 Resolution Panel eligibility shall be limited to full-time, tenured faculty, extended-term academic
84 professionals, extended-term librarians, and extended term archivists who hold no administrative
85 assignment, with no more than six (6) members to be elected from the same college of the
86 University. A pool of alternates for the Faculty Dispute Resolution Panel shall be established,
87 comprised of nominees who are not elected; if needed, alternates shall be selected from the pool,
88 with recipients of the greatest number of votes being selected first.

89 **7. TIME LIMITS**

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

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96 **8. PROCEDURE**

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98 **A. Step One -- Informal Resolution**

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100 Faculty members should normally attempt to resolve any dispute informally and
101 promptly through appropriate discussion with the persons whose actions have given rise
102 to the dispute and, if necessary, through informal consultation with an appropriate
103 administrator or administrators.

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105 **B. Step Two -- Consultation with the Faculty Conciliator**

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

114

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

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121 In the event that the Faculty Conciliator is named as a party in a complaining faculty
122 member's dispute, or in circumstances in which the Faculty Conciliator may be involved
123 in a dispute as a witness, the President may, upon request of the complaining faculty
124 member and in consultation with the Executive Committee of the Faculty Senate, appoint
125 a substitute Faculty Conciliator for purposes of that dispute.

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127 No reference shall be made in a formal grievance proceeding to whether or not the parties
128 engaged in an unsuccessful informal resolution proceeding involving the same dispute.
129 No statements made by the parties in the course of an unsuccessful informal resolution
130 proceeding and no documents specially prepared by the parties for use in such a
131 proceeding shall be admissible in a formal grievance proceeding involving the same
132 dispute.

133 Consideration in an informal resolution proceeding of statements, documents and other
134 evidence which were made or existed prior to the informal proceeding shall not preclude
135 admission of those statements, documents and other evidence in a formal grievance
136 proceeding.

137
138 Participation of the Faculty Conciliator in informal resolution efforts shall be for the
139 purpose of effecting informal resolution of disputes, and the Faculty Conciliator shall not
140 testify in any formal grievance proceeding relating to a dispute in which the Faculty
141 Conciliator has attempted to effect an informal resolution.

142
143 If the dispute is not resolved within twenty days after initiation of consultation with the
144 Faculty Conciliator, the Faculty Conciliator shall notify the parties that the period for
145 informal resolution is terminated. Within five days after receipt of the notice, any party
146 may commence a formal dispute by submitting to the Faculty Conciliator a written
147 statement which must contain:

- 148
149 1) A brief narrative of the facts giving rise to the dispute;
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151 2) A designation of the parties involved; and
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153 3) A statement of the remedy requested.

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155 If no party commences a formal dispute within the time provided, the Faculty Conciliator
156 shall dismiss the dispute.

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

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163 **C. Step Three -- Formal Resolution**

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

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169 The Hearing Officer shall select the Hearing Committee within ten days of receipt of the
170 formal dispute by the Hearing Officer. The Hearing Officer shall convene the Hearing
171 Committee no later than fifteen days after receipt of the formal dispute by the Hearing
172 Officer. The Hearing Committee shall select a hearing chairperson and shall schedule a
173 hearing to take place not later than twenty days after the Hearing Committee is first
174 convened. The Hearing Committee shall hear the dispute in accordance with the attached
175 "Hearing Guidelines", shall compile a hearing record and shall prepare written findings
176 and recommendations within fifteen days after completion of the hearing. The Hearing
177 Committee's recommendations may include a proposed remedy. The Hearing Committee
178 shall forward a copy of its written findings and recommendations to the parties, to the

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

181
182 At any time after commencement of a formal dispute, the Hearing Officer may suspend
183 or terminate the formal proceedings to facilitate further efforts by the parties to resolve
184 the dispute informally, if so requested by the parties and the Faculty Conciliator. The
185 Faculty Conciliator may then assist the parties in further efforts to resolve the dispute
186 informally. The Hearing Officer also may, but is not required to, terminate the formal
187 dispute resolution proceedings at any time after they are commenced if so requested by
188 the faculty member who initiated the formal grievance proceedings.

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190 **D. Parties' Responses to Hearing Committee Findings**

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192 Within ten days after receipt of the Hearing Committee's written findings and
193 recommendations, any party may submit a written statement of position to the President,
194 stating the party's position with respect to the Hearing Committee's decision and any
195 grounds upon which the party believes the President should accept, reject or suggest
196 modification of the Hearing Committee's findings and recommendations.

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198 **E. Presidential Action**

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

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204 1. The President may accept the Hearing Committee's findings and
205 recommendations and remedy (if the Hearing Committee proposed one). If the
206 Hearing Committee did not propose a remedy consistent with its findings, the
207 President shall devise a remedy consistent with the Hearing Committee's findings
208 and recommendations. If proceeding under this paragraph 8.E 1., the President
209 shall, within thirty days after the President's receipt of the Hearing Committee's
210 findings and recommendations, provide a written statement to all parties involved,
211 to the Vice President for Academic Affairs, to the Hearing Committee, and to any
212 affected Dean, notifying them of the President's acceptance of the Hearing
213 Committee's findings and recommendations and the remedy to be implemented.

214
215 2. If the President concludes that a policy question is involved or additional
216 consideration of the facts is warranted, the President may, within thirty days after
217 the President's receipt of the Hearing Committee's findings and recommendations,
218 remand the case to the Hearing Committee with a statement of the reasons for the
219 remand. The President shall also provide a copy of the statement accompanying
220 the remand of the case to all parties involved and they shall have five (5) days to
221 comment in writing to the Hearing Committee. Any party to a dispute may attend
222 any meeting of the President or President's representative with the Hearing
223 Committee at which that dispute is discussed. The Hearing Committee shall report
224 its reconsideration to the President within fifteen days of the remand; the

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

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228 3. The President may disagree with the Hearing Committee's
229 recommendation in whole or in part; if so, the President shall state
230 recommendations and reasons therefore in writing to the Hearing Committee, to
231 the Vice President for Academic Affairs, to all parties and to the deans of the
232 affected units. The President shall provide this written statement to the recipients
233 designated above within thirty days after the President's receipt of the Hearing
234 Committee's findings and recommendations, and all recipients of the President's
235 statement may submit a written response to it to the President within fifteen days
236 after their receipt of the President's statement. Within twenty days after sending
237 the statement of recommendations, and reasons to the Hearing Committee and to
238 the parties, the President shall present the President's recommendations and
239 reasons (and any responses thereto as received by the President) to, the Board of
240 Trustees for final action. The Board of Trustees may elect to have access to either
241 the record of the proceedings or a summary of the record prepared by the Hearing
242 Officer. Within sixty days after its receipt of the President's statement of
243 recommendations and reasons (and any responses thereto), the Board of Trustees
244 shall render and announce to the parties and to the President a decision on the
245 dispute. The Board of Trustees may accept or reject the President's
246 recommendations in whole or in part, or may remand the matter to the President
247 for further proceedings.

Source:

University Regulation, Revision 1; adopted 7/17/08 Board of Trustees meeting
Revisions adopted 11/15/13 Board of Trustees meeting