

APPENDIX A TO UW REG 5-35

1. **PURPOSE.** To establish procedures for formal hearings of faculty disputes.
2. **CHALLENGES.** The disputing faculty member or any person directly involved shall have the right to challenge any member of the Hearing Committee for cause. In the event of challenge, the challenge must be allowed and the member disqualified unless both of the non-challenged members determine that the challenge should be disallowed. In the case of disqualification, absence, or other inability to serve, replacements shall be designated by lot; first from the remaining Faculty Dispute Resolution Panel members, then, if necessary, from the pool of alternates.
3. **JURISDICTION.** The Hearing Committee shall decide whether to accept jurisdiction within fifteen (15) days after being convened by the Hearing Officer. If the Hearing Committee concludes that it does not have jurisdiction over the dispute, it shall notify all parties, in writing, of the reasons for that conclusion. The Hearing Committee's determination that it does not have jurisdiction over the dispute shall be submitted to the President and subject to action by the President pursuant to the procedures set forth in Section 7.E. UW Reg, in the same manner as findings and recommendations prepared pursuant to Section 7.C.
4. **CONVENING OF COMMITTEE.** If accepting jurisdiction of the dispute, the Hearing Committee shall meet to conduct a hearing within twenty days after being convened by the Hearing Officer. Hearings shall be conducted by the Hearing Officer pursuant to the attached requirements for "Role of the Faculty Hearing Officer."

The disputing faculty member shall first present the dispute in person and make an oral presentation to elaborate upon the circumstances set out in the written dispute. The disputing faculty member and any parties may have an advisor present if so requested by the party, that advisor may participate in examination of witnesses or presentation of materials or information to the Hearing Committee. Nothing in this requirement shall be interpreted to limit any party in being afforded full opportunity to present written and oral evidence, to produce witnesses, and to cross-examine witnesses.

5. **EVIDENCE AND RECORDS.** Admissibility of evidence to be presented shall be determined by the Hearing Committee. Subject to the provisions in these Hearing Guidelines relating to "Access to Materials," all relevant evidence shall be admissible, unless the Hearing Committee determines that admission of the evidence would result in unfair surprise to the party against whom the evidence is offered. A record of hearings shall be kept and shall include a record of oral testimony; this record may be a tape recording. All recorded evidence and exhibits shall be retained by the Hearing Committee during the time in which the Committee's recommendations are under consideration. Thereafter, only the official record (consisting only of the written dispute submission, supporting documents submitted to the Hearing Committee and

the Committee's report) will be retained and transferred to the University Archives for retention in a restricted file as an official University record.

- 6. PERSONS PRESENT.** All hearings shall be open only to persons directly involved, to their advisors, and to witnesses while they are testifying, except that the Hearing Committee, on the request of either party, or on its own initiative and with the consent of all parties, may permit representatives of responsible professional associations to attend the proceedings as observers.

Persons directly involved in a dispute or advisors acting on behalf of such persons shall communicate with members of the Hearing Committee on matters relating to the dispute only through the Hearing Officer or at formal meetings of the Hearing Committee at which all parties have been given an opportunity to attend. The decision of the Hearing Committee shall be based upon evidence presented in hearings and communications to which the affected party had the opportunity to respond.

- 7. MAKING A RECOMMENDATION.** The Hearing Committee may recommend that the decision of the administrator or faculty body which is the subject of the dispute be affirmed, modified or set aside. Should the Hearing Committee find that the decision being appealed was not based on proper considerations, the Committee may recommend that the decision be reconsidered, indicating specifically the errors that have been made.

In making its recommendation, the Hearing Committee shall exercise caution not to interfere with the proper exercise of judgment and discretion entrusted to any administrator or faculty body.

If there is a reconsideration, the Hearing Committee shall recommend affirmance, modification, or reversal of the decision as reconsidered and shall submit this recommendation in a report to the President within fifteen days after receipt of the reconsideration. This report to the President shall include a summary of specific findings of the committee and the evidence supporting those findings, with recommendations for settlement of the case. Copies shall be sent to the President and the Vice President for Academic Affairs, to the affected dean and to the parties.

- 8. NO UNDUE DELAY.** Cases must receive prompt attention. Each Hearing Committee shall ensure against unnecessary delay in the hearings and the proceedings. No scheduled hearing shall be delayed beyond thirty-five days from the receipt of a formal dispute by the Hearing Officer except by agreement of the parties and concurrence of the Hearing Officer. The Hearing Officer, with the consent of the Committee, may, however, waive any time limits specified in these guidelines, in the interest of a just resolution of the dispute.

- 9. ACCESS TO MATERIALS.** In reaching its decision, the Hearing Committee shall not, unless for good cause shown, consider or review documents or other materials unless those documents or materials were filed with the Hearing Officer and the

parties to the dispute were afforded full access to them prior to the hearing, allowing reasonable time for response. Ten days prior to the hearing each party shall submit to the Hearing Officer for exchange, copies of all materials to be presented and a list of witnesses annotated to indicate the purpose and general content of anticipated testimony.

10. ROLE OF THE HEARING OFFICER. All disputes shall be submitted in writing to the Hearing Officer, who shall transmit a copy to the parties named in the statement initiating formal dispute proceedings. The Hearing Officer shall be responsible for coordinating all prehearing matters such as production of documents and requests for information. The dispute resolution procedure contemplates a full exchange of relevant information prior to a hearing. All exchanges of data shall be done through the Hearing Officer. The Hearing Officer shall schedule all hearings, make arrangements for a meeting place and for the attendance of witnesses.

All documents to be used by any party in a hearing shall be made available to the opposite side through the Hearing Officer at least ten days prior to the hearing. In the discretion of the Hearing Committee, documents not so disclosed may be received in evidence for good cause shown and in the interest of justice. The Hearing Officer and the Hearing Committee may direct the exchange prior to the hearing of summaries of oral testimony to be offered by each party at the hearing. The Hearing Officer may hold such pretrial conferences as are required to ensure full and fair hearing and disposition of the case. Unless otherwise agreed to by the parties, and approved by the Hearing Officer, hearings shall be held within thirty-five days of the receipt of the dispute by the Hearing Officer.

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

The Hearing Officer may confer with the Hearing Committee during its private deliberations and provide it with assistance in drafting its decision. The report of a Hearing Committee shall be in writing and shall be served on the parties within eighteen days of the close of the hearing. The Hearing Committee shall not meet with any party or the person to whom the report has been forwarded without affording all interested parties an opportunity to participate.

It is the responsibility of the Hearing Officer to ensure that all time limits are enforced and that the procedures are followed. In addition, the Hearing Officers appointed by the President shall be responsible for compiling an annual summary of

all faculty dispute resolution activities. The summary shall be compiled in consultation with the Faculty Conciliator and care shall be taken to ensure confidentiality as to the identity of parties. This annual report shall be submitted to the President, to the Vice President for Academic Affairs and the Executive Committee of the Faculty Senate.