

## **UW REGULATION 5-35**

### **Faculty Dispute Resolution**

#### **1. POLICY.**

The University recognizes the right of faculty 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 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 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 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

those procedures contained in UW Regulation 5-803, "Tenure and Promotion Procedures for University Faculty."

- a. **Faculty Member:** A person appointed to and serving in a faculty position as defined in UW Regulation 5-1.
- b. **Parties:** The parties to a formal grievance proceeding as described in section 8.C. shall be the complaining faculty member, any other persons whose action or inaction caused or contributed to the incident or conditions which gave rise to the dispute, and any administrator whose participation may be required in implementing a resolution of the dispute.

#### **4. FACULTY CONCILIATOR.**

A Faculty Conciliator shall be appointed by the President from a list of three or more persons nominated by the Faculty Senate, and shall serve at the pleasure of the President. The President, in consultation with the Executive Committee of the Faculty Senate shall establish the term and duties of the Faculty Conciliator, and shall periodically review the functions of the office. The President shall provide necessary financial support for the Faculty Conciliator. The Faculty Conciliator shall administer the informal dispute resolution process set forth in this regulation, and shall be available to all parties to facilitate the informal resolution of disputes.

#### **5. HEARING OFFICER.**

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

#### **6. FACULTY DISPUTE RESOLUTION PANEL.**

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

#### **7. TIME LIMITS.**

The Faculty Conciliator or the Hearing Officer in the interest of arriving at a just resolution may extend the time limits prescribed by this regulation. All parties shall be immediately notified of

any change in time limits. In calculating periods of time of less than eleven (11) days, Saturdays, Sunday, University holidays and legal holidays shall be excluded.

## **8. PROCEDURE.**

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

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

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

Any faculty member with an unresolved dispute must consult with the Faculty Conciliator before proceeding to Step 3 of the grievance procedure as described below at paragraph 8.C. The Faculty Conciliator shall be available to assist all parties in attempts to resolve a dispute informally, prior to submission for formal resolution pursuant to paragraph 8.C. 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 President is named as a party in a complaining faculty member's dispute, or in circumstances in which the President may be involved in a dispute as a witness, the responsibilities assigned to the President in this section shall be assumed by the President of the Board of Trustees, who shall be recused from participation in any Trustee review of the matter.

In the event that the Faculty Conciliator is named as a party in a complaining faculty member'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 faculty member and in consultation with the Executive Committee of the Faculty Senate, appoint a substitute Faculty Conciliator for purposes of that dispute.

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

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

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

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

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

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

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

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

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

The Hearing Officer shall select the Hearing Committee within ten days of receipt of the formal dispute by the Hearing Officer. The Hearing Officer shall convene the Hearing Committee no later than fifteen days after receipt of the formal dispute by the Hearing Officer. The Hearing Committee shall select a hearing chairperson and shall schedule a hearing to take place not later than twenty days after the Hearing Committee is first convened. The Hearing Committee shall hear the dispute in accordance with the attached "Hearing Guidelines", shall compile a hearing record and shall prepare written findings and recommendations within fifteen days after completion of the hearing. The Hearing Committee's recommendations may include a proposed remedy. The Hearing Committee shall forward a copy of its written findings and recommendations to the parties, to the Vice President for Academic Affairs, to any affected Dean, and to the President within three days after those findings and recommendations have been completed.

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

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

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

#### **E. Presidential Action**

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

1. The President may accept the Hearing Committee's findings and recommendations and remedy (if the Hearing Committee proposed one). If the Hearing Committee did not propose a remedy consistent with its findings, the President shall devise a remedy consistent with the Hearing Committee's findings and recommendations. If proceeding under this paragraph 8.E 1., the President shall, within thirty days after the President's receipt of the Hearing Committee's findings and recommendations, provide a written statement to all parties involved, to the Vice President for Academic Affairs, to the Hearing Committee, and to any affected Dean, notifying them of the President's acceptance of the Hearing Committee's findings and recommendations and the remedy to be implemented.
2. If the President concludes that a policy question is involved or additional consideration of the facts is warranted, the President may, within thirty days after the President's receipt of the Hearing Committee's findings and recommendations, remand the case to the Hearing Committee with a statement of the reasons for the remand. The President shall also provide a copy of the statement accompanying the remand of the case to all parties involved and they shall have five (5) days to comment in writing to the Hearing Committee. Any party to a dispute may attend any meeting of the President or President's representative with the Hearing Committee at which that dispute is discussed. The Hearing Committee shall report its reconsideration to the President within fifteen days of the remand; the President shall then act upon the Hearing Committee's reconsidered findings and recommendations pursuant to this section 8.E.

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

Source:

University regulation, Revision 1; adopted 7/17/08 Board of Trustees meeting