

DRAFT

7 PROCEDURES GOVERNING FACULTY GRIEVANCES

(Approved 12/13/88 and amended 4/11/89 and 00/00/00)

7.1. Purpose

These procedures are intended to provide a fair, internal process for resolving disputes that arise between faculty and the University of Maryland Baltimore County (“UMBC” or “University”), which have not been resolved through the normal process of reasoned discussion.

7.1.2 Coverage

These procedures apply to grievances filed by a faculty member (the “grievant”), holding faculty appointments at UMBC including tenured faculty, tenure track faculty under contract, and non-tenure-track faculty under contract.

7.1.3 Grievance Defined

A grievance is a written complaint, alleging that some decision, action or inaction by the administration of the University, including faculty and department chairs acting in administrative roles, has adversely affected a faculty member, covered under these procedures, which is in violation of established University policies or procedures, published departmental guidelines, or a reasonable established past practice, that has resulted in substantial harm. These procedures shall not be used to challenge mere dissatisfaction with an existing University policy or procedure, departmental guideline, or past practice.

7.1.4 Exclusions

These procedures will not cover issues which, because they involve matters not exclusive to faculty, may involve individuals in the UMBC community who are not faculty, or are covered under other University System of

Maryland (USM) or UMBC policies. Issues specifically excluded from these procedures include, but are not be limited to, matters covered by:

1. The Policy on Affirmative Action and Equal Opportunity (USM VI-1.00);
2. The Policy of Non-Discrimination on the Basis of Sexual Orientation (USM VI-1.05);
3. The Policy on Sexual Misconduct (USM VI-1.60);
4. The Interim Policy on Prohibited Sexual Misconduct and Other Related Misconduct (UMBC VI-1.60.01);
5. The Policy on Amorous and Sexual Relations (UMBC VI-1.60.02);
6. The Policy on Misconduct in Scholarly Work (USM III-1.10);
7. The Policy and Procedures for Handling Allegations of Misconduct in Research and Other Scholarly Activities (UMBC III-1.10.01);
8. The University System Policy on Appointment, Rank, and Tenure of Faculty (USM II-1.00);
9. The UMBC Promotion and Tenure Procedures; and
10. The UMBC Policy on Prohibited Discrimination.

Nor will this procedure cover complaints of a type which, by USM policy II-4.00 (section II.B.1-4), cannot be reviewed via a grievance.

7.1.5 Confidentiality and Professional Conduct

Complaints or grievances brought under these procedures will be treated with the greatest degree of confidentiality possible, and the privacy of all parties involved shall be respected. Except as disclosures are reasonably necessary in the investigation, meetings, and final disposition of a complaint or grievance, the grievant, witnesses, members of the Faculty Senate Grievance Committee (“Committee”), and others having knowledge of the issues, are expected to preserve confidentiality. However, confidentiality can only be respected insofar as it does not interfere with the University’s obligations to address the complaint or grievance, or to fulfill duties imposed by law, including but not limited to, the Maryland Public Information Act, responses to lawfully issued third-party subpoenas, and responses to discovery requests in litigation.

All those involved in the complaint or grievance process shall adhere to the highest standards of professional conduct, shall focus on factual information, and shall avoid practices that would conflict with their ability to be fair and unbiased.

7.1.6 Grievance Procedures

Under these procedures, an attempt to resolve a dispute will normally follow a two stage process, with an informal complaint stage and then, if necessary, a formal grievance stage involving the Committee.

7.1.7 Informal Resolution

The goal of the informal resolution process is to resolve complaints, without resort to the formal grievance stage. A complaint shall be raised no later than forty-five (45) University business days after the date the grievant knew or reasonably should have known about the issue/dispute. The grievant and the faculty member or administrator having immediate authority over the matter, should make reasonable and good faith efforts to resolve the complaint, promptly and informally. If the parties involved so agree, they may seek the assistance of academic administrators (including department chairs or deans), as appropriate, to assist in facilitating a resolution of the complaint.

If the complaint is resolved informally, a written record of the resolution/agreement shall be maintained by the grievant and the faculty member or administrator having immediate authority over the matter, who is involved in the resolution.

If the complaint is not resolved informally, the grievant may initiate the formal grievance process, as detailed below. However, informal resolution is encouraged at any time under these procedures.

7.1.8 Formal Stage

A complaint shall become a grievance under these procedures, only after: 1. the grievant has attempted, in good-faith to informally resolve the complaint, and the attempt has failed; and 2. the grievant has sent the grievance, in writing, to the Chair of the Committee and the Faculty Senate President, via hand-delivery or mail *and* electronic mail.

The grievance shall be filed no more than seven (7) University business days after informal resolution has proven to be unsuccessful.

If the grievance is filed out of regular semesters, the grievance shall be filed with the Faculty Senate President, via hand-delivery or mail *and* electronic

mail. If the grievance is filed outside of regular semesters the Faculty Senate President shall communicate the grievance to the Chair of the Committee in a timely manner so that the formal grievance process may take place during the next subsequent semester.

Within seven (7) University business days of receipt of the grievance, the Chair of the Committee and the Faculty Senate President shall send an electronic mail message to the grievant, acknowledging receipt of the grievance.

7.1.9 The Grievance

The grievance must be in writing, dated, and signed by the grievant. The grievance must specifically state the following information:

1. the decision, action, or inaction which adversely affected the grievant;
2. the specific policy or procedure, published departmental guideline, or reasonable past practice that has allegedly been violated;
3. the harm which has resulted;
4. the date the issue arose and the date the grievant first became aware of the issue;
5. any facts relevant to the issue;
6. the name of the individual(s) whom the grievance is against; and
7. the specific remedy or redress sought;
8. the efforts taken to resolve the matter through the normal process of reasoned discussion.

7.1.10 The Burden of Proof

The burden of establishing the requirements in Section 7.1.9 rests with the grievant at all times. Further, at the hearing stage, the grievant bears the burden of establishing via preponderance of the evidence, that a decision, action or inaction adversely affected the grievant, which was in violation of established University policies or procedures, published departmental guideline, or a reasonable established past practice, that has resulted in substantial harm; and that a remedy is reasonable and proper. Preponderance of the evidence means that the existence of the fact in issue is more probable than not, is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

The preponderance of the evidence standard would be met where the Committee members find that the evidence supporting the allegation(s) in the grievance are more convincing than the opposing evidence.

Therefore, the grievant is strongly encouraged to provide as much detail and specificity as possible when filing the grievance.

7.1.11 Request for Extension of Time

A request for extension of time for filing the grievance shall be submitted, in writing, to the Chair of the Committee. The burden rests with the grievant for establishing a reasonable basis for requesting an extension of time. The Chair of the Committee may consult with the members of the Committee to make a determination of whether the request for extension of time is reasonable, and the Chair of the Committee shall respond to the grievant in writing, within seven (7) University calendar days, whether the request will be granted.

7.1.12 Jurisdictional Decisions

The Committee shall determine whether the jurisdictional requirements have been met, within twenty (20) University business days of receipt of the grievance, or within twenty (20) University business days of the beginning of the next regular semester if the grievance is filed outside the regular semester. The Committee may also seek additional information from appropriate University offices or administrators to assist in making the jurisdictional determinations:

1. Whether the grievant is covered under these procedures;
2. Whether the grievant attempted informal resolution; and
3. Whether the grievant has included the required information, as outlined in Section 7.1.9.

The Committee shall make a written determination of whether the grievant has satisfied the above requirements. The Committee's determination and rationale as to whether the grievant has or has not satisfied the above requirements shall be issued in writing to the grievant and the Faculty Senate President.

7.1.13 Role of the Committee

After jurisdiction has been determined pursuant to Section 7.1.13, the role of the Committee is to determine whether a decision, action or inaction by the administration of the University, including faculty and department chairs acting in administrative roles, has adversely affected a faculty member, covered under these procedures, which is in violation of established University policies or procedures, published departmental guidelines, or a reasonable established past practice, that has resulted in substantial harm.

To carry out its role the Committee has the following powers, including but not limited to, conducting interviews, requesting documents and other evidence.

The Committee shall be neutral and shall not act in an advocacy role for any party to the grievance. The Committee acknowledges and understands that each grievant has the right to an impartial evaluation of their grievance.

7.1.14 Committee Meeting Procedures

The Chair of the Committee will preside over all meetings. If the Chair of the Committee is unable to attend, or is recused or removed, the Committee will choose a temporary replacement, and communicate that information to the grievant and the Faculty Senate President.

The Committee shall make every effort to schedule its meetings as expeditiously as possible, with due regard for the grievant's academic and personal obligations. The Committee shall notify the grievant of meetings in writing or email at least seven (7) University calendar days ahead of time. The grievant is entitled to appear before the Committee to present their case orally in addition to the written presentation, as required in Section 7.1.10. No legal counsel shall be present at the Committee meetings or appear before the Committee.

There shall be no audio or video recordings of the Committee meetings. A designated member of the Committee will take notes, which will become part of the official grievance record.

If a grievant requires a disability-related accommodation, they shall immediately notify the Chair of the Committee. The Chair of the Committee

will refer the grievant to the University's Office of Human Relations to work in consultation regarding the disability-related accommodation request.

The formal rules of evidence, as utilized in the court of law, shall not be applicable to these procedures. The Chair of the Committee will determine what may be admitted into evidence. Evidence may include oral testimony or documents. The Committee shall obtain and review all documents submitted by the grievant and all relevant documents pertinent to the grievance. The Committee shall request access to all relevant documents in the custody of any person in the University. If the Committee is denied access to a relevant document, they will request that the University official in custody of the document state in writing the reason for the denial. The written denial will become part of the official record for the grievance.

The Committee will conduct separate initial interviews and follow-up interviews, if needed, of the grievant, witnesses, others having knowledge of the matter, and appropriate administrative officials. Meetings before the Committee will not be open to the public.

The Committee will make a good faith effort to resolve a grievance within the regular semester in which it is taken up. If the Committee is unable to complete its review of the grievance within that semester, it must inform the grievant and the President of the Faculty Senate in writing.

The decision of the Committee shall be determined by a simple majority of its members. The Committee may decide to recommend to the President of UMBC that a remedy be granted wholly or in part, or it may recommend denial of a remedy. The Committee's decision is not binding, and serves only as a recommendation to the President of UMBC.

The Committee's decision and justification for it will be included in a written report that will be sent to the President of UMBC within seven (7) University business days of that decision.

The President of UMBC will be asked to respond within twenty (20) University business days, whether or not the President accepts the recommendation of the Committee. The President's decision and rationale, and a copy of the Committee's report shall be communicated to the grievant and the President of the Faculty Senate in writing. The President's decision and rationale will also be communicated in writing to the Committee.

7.1.15 Conflict of Interest

Except in extenuating circumstances, the grievant may request the removal of no more than two (2) Committee member(s), including the Chair, for cause when the grievant believes the Committee member(s) and/or Chair would be unable to evaluate the case impartially. This request shall be filed in writing no later than five (5) University business days before the scheduled Committee Meeting.

In filing a request for removal of a Committee member and/or Chair, the grievant must state with specificity why the grievant believes the Committee member and/or Chair would be biased or partial. The Committee will determine whether there is reasonable cause to remove/dismiss the Committee member and/or Chair, by simple majority vote.

Any Committee member or Chair who feels that their participation may have the appearance of a conflict of interest should recuse themselves. Any Committee member or Chair who feels they will have difficulty being objective in a given case shall recuse themselves. Members of the Committee, including the Chair, who are from the grievant's department, or from interdisciplinary programs with which the grievant is affiliated should recuse themselves.

If recusals or removals of the Chair and/or Committee members reduce the size of the Committee to fewer than five (5) members, the Faculty Senate President shall find replacements to return the Committee to full strength.

7.1.16 Grievance File

The Committee will establish a confidential grievance file as soon as a formal grievance has been received, which will be maintained by the Office of the Senate. All documents collected, notes of interviews, the original grievance and any other relevant material shall be maintained in this file. Minutes of Committee meetings will be a part of the confidential grievance file. The confidential grievance file is only available to members of the Committee and the grievant, subject to other University administrators and officials, on a need to know basis to carry out University obligations. Confidential grievance files shall be kept for a period of five years or for the duration of any legal process, whichever is greater.