

Faculty Grievance Committee Rules of Procedure

Revised and Approved 5/20

University of Nebraska at Kearney

*Sections 4.13, 4.13.1 and 4.13.2 of the [Bylaws of the Board of Regents](#) provide for the creation of a Faculty Grievance Committee “which shall have the powers specified in Section 4.13.2, in addition to any other powers granted by the faculty governing agency pursuant to these *Bylaws*”*

From the Board of Regents Bylaws:

4.13.2 Powers of Faculty Grievance Committee. Any Faculty Grievance Committee established under Section 4.13.1 shall be empowered: (a) To consider a complaint filed by any faculty member alleging any grievance; (b) To seek to settle the grievance by informal methods of adjustment and settlement, either itself or by using the services of any officer or body directed to settle grievances and disputes by mediation, conciliation, or other informal methods; (c) To draft rules of procedure for the orderly and fair handling of grievances by the Committee, which rules shall become effective after notice and hearing when approved or modified by the Board, and, upon approval, shall be effective as a part of the Rules of the Board; and (d) To proceed, if informal methods fail to resolve the matter satisfactorily, with further proceedings, to be conducted in accordance with the Rules of Procedure approved by the Board under this Section, and in accordance with the following principles: (1) If the grievance alleges that inadequate consideration was given to relevant matters by the person or body that took the action or made the decision that led to the grievance, the Grievance Committee shall investigate the facts, and, if convinced that inadequate consideration of the relevant matters occurred, state the facts found and the respects in which the consideration was inadequate. The Committee may order the matter reconsidered by the appropriate person, group or groups, or recommend that other rectifying action be taken. The Grievance Committee shall not substitute its judgment on the merits for that of the person, group, or groups that previously considered the decision. (2) If the grievance alleges that a discontinuance of a department or program is not bona fide, or that no extraordinary circumstances because of financial exigency exist, the Committee shall investigate and state its factual findings, conclusions, and recommendations in writing, which shall be filed with the Chancellor of the major administrative unit involved, the complainant, and the faculty governing agency.

Article VII.I of [UNK Faculty Senate Constitution](#) of the Bylaws of the University of Nebraska-Kearney provides for the membership and specific responsibilities of the Faculty Grievance Committee and specifies that “The charge to the Professional Conduct Committee is to carry out

its functions in an equitable, efficient, and consistent manner in conformity with these Rules of Procedure.”

Section 1. Definitions.

(a) Chair. Chair shall mean the chair of the Faculty Grievance Committee, or in his or her absence, the vice chair of the Faculty Grievance Committee.

(b) Chancellor. Chancellor shall mean the Chancellor of the University of Nebraska at Kearney or his or her designated representative.

(c) Committee. Committee shall mean the University of Nebraska at Kearney Faculty Grievance Committee.

(d) Faculty Member. Faculty member shall mean any individual who is classified for employment purposes as a member of the academic-administrative staff or the other academic staff of the University of Nebraska at Kearney as defined in *Sections 3.1.1.1 and 3.1.1.2* of the Bylaws of the Board of Regents.

(e) Grievant. Grievant shall mean a Faculty member who files a written complaint before the Faculty Grievance Committee in accordance with these rules.

(f) Grievance. Grievance shall mean a written complaint together with any supporting documentation filed by a grievant with the Chair of the Faculty Grievance Committee which if true would constitute a violation of the Grievant's status or rights as a member of the academic-administrative staff of the University of Nebraska at Kearney over which the Committee has jurisdiction.

(g) Respondent. Respondent shall mean the person, persons or body which took the action or made the decision that is the subject of a grievance.

(h) Working Day (also “Business Day”): A Working or Business Day shall be any Monday thru Friday on which University classes are in session or examinations are being held. Working Day shall also be interpreted to include weekdays during which academic operations are ongoing using online resources during periods of emergency declared by the Chancellor.

(i) Faculty Senate Coordinating Committee (a.k.a. “Super Committee”): A committee comprised of the President of the Faculty Senate and the Chairs of the Professional Conduct Committee, Grievance Committee, Academic Freedom and Tenure Committee, and UNKEA, for the purpose of coordinating activity among Faculty Senate committees.

Section 2. Time Limit for Filing a Grievance.

A grievance must be filed not later than one (1) calendar year after the date the grievant becomes aware of the action or decision which led to the grievance; provided, that any grievance of an action or decision to terminate an appointment for a specific term or a special appointment as a member of the academic-administrative staff shall be filed with the Committee not later than forty-five (45) working days prior to the termination date of the appointment, unless the Committee shall find that the grievant has shown good cause which prevented the filing of the grievance within the last stated time limitation.

Section 3. Initiation of Proceedings.

Proceedings before the Committee may be initiated by any Faculty member filing a written complaint with the Chair or with the President of the Faculty Senate.

Section 4. Determination of Jurisdiction.

Upon receiving a complaint, the Chair or President will forward the complaint to the UNK Faculty Senate "Super Committee" to determine if the complaint should be assigned to the Grievance Committee for adjudication. Once the Super Committee in turn assigns the case to the Grievance Committee, then the Chair will call a meeting of the Committee as soon as possible. The Committee will first review the complaint for the purpose of determining whether the facts and circumstances therein alleged constitute a grievance within the jurisdiction of the Committee. If the Committee finds that no grievance has been stated or if the Committee finds that the complaint for any other reason does not fall within its jurisdiction, it will return the complaint to the Super Committee for either reassignment to another committee or to the grievant stating the reasons for the Committee's finding. In making determinations as to jurisdiction, the Committee shall be guided by the *Bylaws of the Board of Regents*. In cases where the Committee has initially declined to accept a complaint as a grievance, a grievant may within seven (7) working days after receipt of written notice of such action refile his or her complaint or file an amended complaint with the Committee, and request that the Committee reconsider its action. The Committee will reconsider the question of whether it should accept the complaint or amended complaint as a grievance. If upon reconsideration the Committee finds that no grievance within its jurisdiction has been stated, or that it does not have jurisdiction, such finding shall be final and there shall be no further proceedings before the Committee with regard to the original or an amended complaint.

Section 5. Adoption of Committee Statement of the Grievance.

If the Committee accepts a complaint as a grievance, it will then proceed to adopt a Committee Statement of the Grievance. The Committee Statement of the Grievance shall contain (a) the name of the grievant, (b) the name of each respondent, and (c) a statement

in ordinary and concise language of the allegations of fact relating to the grievance, including the action or decision which led to the grievance.

The Committee shall first prepare a draft Committee Statement of the Grievance. A copy of the draft Committee Statement of the Grievance shall be delivered to the grievant via e-mail. The Grievant shall thereafter have seven (7) working days to deliver to the chair written recommendations for amendments or revisions to the draft Committee Statement of the Grievance. The Committee shall meet as soon as reasonably possible thereafter and adopt a final Committee Statement of the Grievance.

Section 6. Service of the Grievance and the Committee Statement of Grievance.

The Committee shall send a copy of the final Committee Statement of the Grievance to each respondent, the grievant, the Chancellor, the Vice Chancellor for Academic Affairs and the President of the Faculty Senate, The Committee shall also send to each respondent a copy of the written complaint originally filed with the Committee by the Grievant. All copies and documents required in these procedures may be sent via UNK e-mail systems unless otherwise indicated in these procedures.

Section 7. Informal Procedures.

After service of the Committee Statement of the Grievance as provided in [Section 6](#) of these rules, at the direction of the committee the Chair may take such action as deemed appropriate to settle the grievance by informal methods of adjustment and settlement as provided by *Section 4.13.2 (b)* of the Bylaws of the Board of Regents.

Section 8. Initiation of Formal Procedures and Definition of Issues to be Investigated.

(a) Response and Lists of Suggested Witnesses. If the grievance cannot be settled by informal methods of adjustment and settlement as provided in [Section 7](#) above, the Committee shall send written notice to each respondent requesting that within fourteen (14) working days they respond in writing to the Committee Statement of the Grievance and provide a list of suggested witnesses with an indication of the issues in the Committee Statement of the Grievance concerning which each witness is expected to have knowledge. The Committee shall also send written notice to the grievant requesting that within fourteen (14) working days he or she provide a list of suggested witnesses with an indication of the issues in the Committee Statement of the Grievance concerning which each witness is expected to have knowledge.

(b) Copy of Response to Grievant. A copy of the written response from each respondent shall be sent to the grievant.

(c) Scope of Committee Investigation. The written material submitted to the Committee by the grievant and each respondent shall define the issues to be subsequently

investigated by the Committee, and no party will be permitted to raise any additional issue unless it can be shown that the facts relating thereto were discovered after the date of the party's written submission to the Committee, or that some other valid reason exists for not raising the issue earlier.

(d) Notice of Meeting with the Committee, The Committee shall give each party and witness no less than seven (7) working days advance, written notice of the date, time and place they will be requested to meet with the Committee.

Section 9. Conduct of Formal Investigative Meetings.

For the purpose of conducting a formal investigation of a grievance, the Committee may either designate two or more of its members to act as an investigative subcommittee, or it may act as a whole. Meetings may be conducted separately with the grievant, each respondent, and any other persons called by the Committee to meet with it concerning the grievance or the committee may request that the grievant, respondent, or other witnesses attend meetings jointly.

All persons meeting with the Committee will be requested to respond to questions by the Committee and give testimony relevant to the grievance. Any person meeting with the Committee may in addition to his or her oral testimony submit a written statement. The Committee will interview all witnesses suggested by the parties except where it appears that the testimony of a witness would be (a) unduly repetitious of evidence already presented to the Committee, or (b) irrelevant to the grievance. The Committee may also call other witnesses which it believes may have relevant testimony.

Section 10. Committee Access to Personnel and Student Records.

In connection with the formal investigation of a grievance it shall be considered a legitimate educational and institutional interest for the Committee to examine any University personnel and student records considered by any person or body in taking the action or making the decision which is the subject of a grievance. The Committee shall be subject to and shall observe all laws, policies, rules and regulations pertaining to preservation of the confidentiality of such records.

Section 11. Interference with Committee Investigation.

If there is a reasonable basis in fact for the Committee to believe that any individual is in bad faith impeding the Committee's investigation of a grievance pursuant to *Section 4.13.2* of the Bylaws of the Board of Regents, the Committee may refer such matter to the Chancellor or to the Professional Conduct Committee for remedial action.

Section 12. Standards for Consideration of a Grievance.

In its deliberations concerning any grievance, the Committee shall be guided by applicable state and federal law, the *Bylaws of the Board of Regents*, the Bylaws of the University of Nebraska at Kearney, the University of Nebraska Governance Manual, the bylaws, rules or regulations of the relevant administrative units (college, department, division, etc.), and general academic customs and standards. In the event of conflict between different University bylaws, rules or regulations, those of the superior administrative unit shall govern.

Refusal by any person to make documents available, testify, or take personal responsibility for testimony will prevent the Committee from receiving evidence which may be relevant to its investigation of a grievance, and the Committee in its deliberations shall take any such refusals into consideration in making its findings of fact, decisions and recommendations to the Chancellor.

Section 13. Committee Report.

Upon completion of an investigation of a grievance, and in accordance with the formal procedures in these rules, the Committee as a whole shall prepare and adopt a report of its findings of fact, order of reconsideration and/or recommendations, as appropriate, pursuant to *Section 4.13.2* of the Bylaws of the Board of Regents and these rules. Any **recommendations** by the Committee shall be relevant to its findings of fact and may include, but not be limited to, the following:

- (a) Rectifying any grievance found in the report;
- (b) Preventing the recurrence of the grievance, and
- (c) Correcting any deficiencies or abnormalities found in bylaws, rules, regulations or procedures relevant to the grievance.

A report of the Committee shall be promptly delivered to the grievant, each respondent, the Chancellor, the appropriate Vice Chancellor, and the President of the Faculty Senate.

Section 14. Reconsideration Ordered by the Committee.

If the report of the Committee orders reconsideration, the Committee shall also recommend in its report the appropriate person, group or groups to accomplish the reconsideration, Upon receipt of a report of the Committee ordering reconsideration, the Chancellor shall forthwith initiate proceedings for reconsideration in accordance with [Section 15](#) of these rules.

Section 15. Process for Reconsideration.

- (a) The process for the conduct of each reconsideration ordered by the Committee shall be promptly established by a reconsideration oversight panel consisting of one person appointed by the Chancellor, a member of the Grievance Committee selected by the Committee, and the President of the Faculty Senate or his/her designee. The process

established for each reconsideration shall be fair and expeditious and must be approved by the Chancellor.

(b) A copy of the Committee report detailing why it found that the original consideration was inadequate shall become part of the file for reconsideration. The reconsideration oversight panel may request that the Committee clarify its reasons for ordering reconsideration.

(c) Each reconsideration ordered by the Committee shall start with the level at which the Committee found inadequate consideration, except the Chancellor may order that a reconsideration shall start in the department.

(d) If the grievance resulted from termination of an appointment for a specific term, the grievant shall be informed that he or she may join the reconsideration ordered by the Committee with a reconsideration allowed under *Section 4.8 (a)* of the Bylaws of the Board of Regents. If the grievant exercises this right, further recourse under *Section 4.8 (a)* is barred, the grievant may choose whether the joint action starts at the same level as that ordered by the Committee or at any level below that.

(e) No subsequent grievance may be taken to the Committee from a reconsideration oversight panel.

Section 16. Chancellor's Response to Committee Recommendations.

If the report of the Committee contains recommendations pursuant to subparagraphs (d) (1) and (d) (2) of Section 4.13.2 Section 4.13.2 of the Bylaws of the Board of Regents, the Chancellor shall review the same and within a reasonable period of time make a written response to the Chair stating (a) Recommendations of the Committee which have been accepted in whole or in part and any action taken as a result thereof, and (b) those recommendations of the Committee which have been rejected in whole or in part and the reasons for such rejection.

Section 17. General Provisions.

(a) Quorum. A quorum for meetings of the Committee shall be a simple majority of all members of the Committee who have not been disqualified under [subsection \(e\)](#) of this section.

(b) Vote required. All issues before the Committee shall be decided by a simple majority of all members of the Committee who have not been disqualified under [subsection \(e\)](#) of this section.

(c) Pending Grievances Continuance of Committee Membership. Any member of a Committee whose term of membership expires while a grievance is pending before the Committee shall continue to serve as a member of the Committee with regard to any such pending grievance until the Committee proceedings therein are completed.

(d) Consolidation of Grievances. Whenever two or more grievances are pending before the Committee which grieve the same action or decision, the Committee may consolidate such grievances into a single case for the purpose of the Committee's proceedings pursuant to these rules.

(e) Disqualification of Member(s): No member of the Committee shall participate in any proceedings of the Committee if he/she is a member of the department of either the Complainant(s) or the Respondent(s), or if he/she would not be capable of impartially considering the evidence and issues before the Committee in the proceedings. Committee members may also choose to recuse themselves from any specific investigation on the basis of unavailability, lack of appropriate expertise, or a personal conflict of interest. Any member of the Committee may raise the question of disqualification of another member by making a motion to disqualify, which must be seconded and voted on by the remaining Committee members. In the event that one or more members of the Committee are disqualified from participating in a particular set of proceedings, the President of the Faculty Senate shall choose a qualified replacement Committee member.

(f) Proceedings closed. All proceedings before the Committee under these rules of procedure are considered to be investigative in nature and shall not be open to the public.

(g) Finality of Proceedings. When a grievance has been settled by informal procedures or when the Committee has rendered a report on a grievance pursuant to its formal procedures, the proceedings of the Committee with respect to such a grievance shall be at an end and the same grievance shall not thereafter be again considered or acted upon by the Committee.

(h) Withdrawal of a Grievance. Proceedings of the Committee with respect to any grievance shall be terminated upon the filing of a written withdrawal of the grievance by the grievant.

Participation by Attorneys in Committee Proceedings Not Allowed. The grievant, a respondent and other persons meeting with the Committee, and the Committee itself, shall not be represented by attorneys who are present at Committee proceedings. The grievant, a respondent and any person meeting with the Committee may at their personal cost and expense be assisted by the private attorney of their choice in preparation of written materials and documents to be submitted to the Committee and in preparation for meeting with the Committee.

(i) The Committee may request that the General Counsel of the University of Nebraska to provide legal counsel to the Committee. The Committee may also request the advice and assistance of appropriate professional consultants (e.g., a psychiatrist, a technical expert, an ethicist, an accountant, experts within a particular discipline). The Committee

shall have the right to select and hire a lawyer not otherwise affiliated with the University to assist it in conducting hearings. The lawyer selected must be agreed to by the General Counsel of the University, the President of the Faculty Senate (or designee), and the Chancellor of UNK (or designee). The Committee also may ask other persons who appear to have knowledge of the matter under investigation to meet with the Committee. The University shall not without good cause refuse to provide financial and other resources necessary for the Committee to obtain such expertise, the cost within reason of such expertise not to be considered good cause.

(j) Records of Hearings, The committee will maintain voice recordings of all hearings conducted. A grievant or respondent desiring a written transcript may arrange to obtain one at his or her own expense.

(k) Referral of Findings to Academic Freedom and Tenure Committee or Professional Conduct Committee. At the conclusion of the proceedings of the Committee with respect to a grievance the Committee, the Grievant, a respondent, or the Chancellor may refer to the Academic Freedom and Tenure Committee or the Professional Conduct Committee any finding of the Grievance Committee which may be appropriate for consideration by the Academic Freedom and Tenure Committee or the Professional Conduct Committee.

(l) All evidence and testimony from witnesses will be fully available to the Grievant and the Grievant will have the opportunity to address questions to and to directly cross examine any witness.

(m) No member of the Committee shall hold any administrative position above the level of Department Chair, regardless of faculty status.