

Professional Concerns Committee

Minutes for February 4, 2021

Virtual Meeting (On Zoom Conferencing Software), 3:30 pm

Members in Attendance: S. Alexander, K. Code, W. Darnell, L. Dynan, J. Elliott, K. Fuegen, N. Grant, B. Green, J. Herman, J. Human, B. Karrick, M. King, A. Miller, K. Munte, M. Nakamura, G. Newell, M. Providenti, H. Riffe, J. Rubleske, G. Sun, M. Whitson

Guests in Attendance: Interim Provost Ande Durojaiye, J. Bloch, G. Hiles

Members Not in Attendance: L. Manchise, B. Mittal, K. Noyes, J. Washburn-Moses, K. Yates

1. Call to Order, Adoption of the Agenda
 - a. The Meeting was called to order at 3:30pm. The agenda was adopted unanimously without changes.
2. Approval of the minutes from the January 21 meeting
 - a. Draft Minutes from PCC Meeting of January 21, 2021 were approved with the following addition from M. Whitson on the topic of sabbaticals and fellowships for tenure-line faculty on part-time appointments: In conclusion, PCC is exploring the possibility of clarifying handbook language to make sure faculty on part time appointments would be eligible for developmental awards of summer fellowships and project grants.
3. Chair's Report and Announcements
 - a. While reading about faculty on part-time appointments (including phased retirement) and eligibility of development awards: The Handbook suggests faculty who go on phased retirement have to sign an agreement saying they relinquish tenure. Provost Rowlands said that faculty should never have to sign such an agreement. Faculty Senate President Farrar planned to contact HR about this. It remains unclear if that language can be removed or not. To apply for summer fellowships and project grants faculty must be tenured or tenure track.
 - i. Tenure in Kentucky is tenuous as of year and half ago. L. Dynan will check on this situation and report back.
 - b. Phased Retirement: Faculty who receive a terminal contract are not eligible for a summer fellowship or project grant. Is phased retirement a terminal contract? PCC should look at this since the "terminal contract" language predates phased retirement. PCC could specify phased retirement does not constitute a terminal contract. K. Fuegen will explore this further and check with HR.
 - c. New Provost: Matt Cecil will begin on July 1.
 - d. Vaccines: Kentucky has delayed phase 1C. There are three mass vaccination sites in Kentucky but none in northern Kentucky. Sign up for updates at the state's vaccination website (this requires a Kentucky mailing address).

- e. Enrollment: Enrollment in accelerated programs has been great. Enrollment in traditional programs is down. Applications for fall are down. Hopefully we'll see a surge in the fall like we saw in the weeks before spring semester.
 - f. State: Gov. Beshear has proposed to the legislature a 2% increase in state appropriations, 1% to each institution's base budget, the remaining to the performance fund.
 - g. Curriculum: Faculty Senate has approved a new program, Master of Science in Health Administration.
4. Old Business, discussion item: Revising Faculty Handbook section 14 (grievances)
- a. Definition of grievances

Background: a faculty member can file a grievance, often in the context of RPT. After a negative recommendation from a committee, Chair, or Dean, a faculty member can seek a reconsideration at the level of initial negative recommendation. After a negative recommendation from the Provost, faculty can file a grievance.
 - b. Process:
 - i. What matters are subject to peer review?

Two categories of grievances, issues regarding professional appointment (heard by the Peer Review Committees) and all others.

 1. Does the Peer Review Advisory Committee keep a list of types of cases?
 - K. Fuegen will find out and report back.
 - There have been other kind of cases, not RPT, but it is rare. When this happens, the committee needs to figure out how to proceed. It is not clear.
 - Most years the Peer Review Hearing Committee does not meet, the Peer Review Advisory Committee may meet more frequently.
 2. How would program reduction be subject to peer review?

Handbook section 10.6 indicates faculty terminated due to program reduction can appeal to the Peer Review Advisory Committee.
 - ii. What is the composition of peer review committees?
 1. Hearing and Advisory committee each have 5 members with alternates. 4 year terms. Elected at large. Elections conducted by Faculty Senate Elections Committee.
 - Any provision for conflict of interest? Can the grievant ask someone to recuse themselves? Conflict of interest statement says a member can't be from the same department as grievant.
 - Any concerns about administrators serving on these committees? Membership not addressed in depth in the Handbook.
 - Going forward, PCC should look at membership. K. Fuegen will look at RPT language to see if that might apply here.

2. Is the conflict of interest statement strong enough?
 - The language in this section is confusing.
 - Suggestions for first sentence: "No member of either Peer Review Committee shall serve in the appeal or review of any matter arising from the department(s) of his/her appointment, in any **case** [*case = does this mean something that has been referred?*] in which the member participated **in any** [*remove "in any" or add "recommendation" after "in any"?*] prior to referral to the Peer Review Committee on which the member participates, nor in any matter in which the member may legitimately be called as a witness."
 - Suggestion to provide a clear definition of "conflict of interest" and a list of examples but retain the last sentence of the section ("it is the responsibility..."). K. Fuegen will review to see if a definition of conflict of interest has been addressed elsewhere in the Handbook.
 - Question about last sentence "in which they have any **other** conflict of interest"—what does "other" mean here? Ones mentioned above *and* others? PCC will return to this discussion.
3. Question: When can a faculty member go to University Counsel? Can PCC determine what University Counsel does? At what point does a faculty issue intersect with protecting the university? (No answer at this time).
 - iii. What is the procedure for filing a petition?
 1. This topic is delayed until the next meeting of PCC.
5. New Business, discussion item: Do we want to file any comments regarding the revised final exam policy?
 - a. Background: This policy is currently being revised. Concerns that were expressed include: are faculty expected to give exams in this period? What about shorter terms, like 7 week which doesn't have exam week?
 - Are we OK with the policy statement, should PCC file a comment?
 - Concern: "for *many* undergraduate courses..." – many does not imply most.
 - The final exam policy would include other appropriate cumulative activities.
 - Suggestion: Add "unless approved by college or department chairs..."?
 - Suggestion: We shouldn't say all classes must do something. We should respect that our faculty are doing what's right for their situation.
 - No further action by PCC on this topic.
6. New Business, discussion item: Can we develop a pathway for handling student and parent complaints about courses?
 - a. Background: Some parents of students call the University President to complain about courses and faculty feel blindsided. Could faculty add something to syllabus to direct students to first talk to their professors? Could we suggest a way for administrators to refer these matters back to faculty?

Suggestions:

 - Might there be something in Code of Student Rights and Responsibilities that

addresses this issue that can be placed in syllabi?

-- Should there be a policy for administrators and other faculty to refer students back to their faculty member?

-- PCC could look at the grade appeals policy for a path forward.

-- PCC could provide a friendly reminder to administrators that students should be directed to address the issue with their faculty member first.

-- Future action: Continue discussion.

7. Adjournment

The meeting adjourned at 4:47pm.

Submitted,

M. Providenti, Secretary

FINAL EXAMINATIONS - UNDERGRADUATE

POLICY NUMBER: AAPC-FINALEXAMS

POLICY TYPE: ACADEMIC & ADMISSIONS POLICY COMMITTEE

RESPONSIBLE OFFICIAL TITLE: VICE PROVOST FOR UNDERGRADUATE ACADEMIC AFFAIRS

RESPONSIBLE OFFICE: VICE PROVOST FOR UNDERGRADUATE ACADEMIC AFFAIRS

EFFECTIVE DATE: UPON PRESIDENTIAL APPROVAL

NEXT REVIEW DATE: PRESIDENTIAL APPROVAL PLUS FOUR (4) YEARS

SUPERSEDES POLICY DATED: 1/28/2013

BOARD OF REGENTS REPORTING (CHECK ONE):

PRESIDENTIAL RECOMMENDATION (CONSENT AGENDA/VOTING ITEM)

PRESIDENTIAL REPORT (INFORMATION ONLY)

I. POLICY STATEMENT

Northern Kentucky University expects all courses to include appropriate procedures for evaluating student performance. For many undergraduate courses, these procedures will include a final exam, a final paper or project, or some other cumulative activity appropriate to the discipline and to the course.

- A. Classes offered in a standard class time meeting pattern during the full session for Fall and Spring semesters are assigned a final exam date and time in the final exam week schedule grid issued by the Office of the Registrar. Instructors giving final exams or holding other class meetings during final exam week must use the assigned final exam date and time.
- B. Classes held during Fall or Spring sub-sessions, Summer session, or Winter session do not have a designated final exam date or time.
- C. Instructors with classes meeting on a non-standard pattern needing a classroom assigned during final exam week should contact the Office of the Registrar regarding room availability.
- D. A student scheduled for more than two final exams on the same day during final exam week may request a schedule adjustment. Prior to final exam week, it is the student's responsibility to work with their instructors to find an alternative testing time during final exam week for one of the exams. If none of the faculty agrees to a different exam date, the faculty member giving the third exam of the day is required to arrange a different date for the student to take the exam.

II. ENTITIES AFFECTED

Faculty and Students

III. REFERENCES AND RELATED MATERIALS

RELATED POLICIES

Faculty Handbook – Obligations to Students (16.2.2.1) – “Meeting the final the examination schedule” (*sic*)

REVISION HISTORY

REVISION TYPE	MONTH/YEAR APPROVED
Revision	
Policy	January 28, 2013

FINAL EXAMINATIONS

PRESIDENTIAL APPROVAL

PRESIDENT

Signature

Date

Ashish K. Vaidya

BOARD OF REGENTS APPROVAL

BOARD OF REGENTS (IF FORWARDED BY PRESIDENT)

- This policy was forwarded to the Board of Regents on the ***Presidential Report (information only)***.
Date of Board of Regents meeting at which this policy was reported: ____/____/____.
- This policy was forwarded to the Board of Regents as a ***Presidential Recommendation (consent agenda/voting item)***.
 - The Board of Regents approved this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing approval of policy.)
 - The Board of Regents rejected this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing rejection of policy.)

VICE PRESIDENT & CHIEF STRATEGY OFFICER

Signature

Date

Bonita J. Brown

14. GRIEVANCES

14.1. DEFINITION

For the purposes of this Handbook, there are two categories of grievances:

- Major issues concerning a faculty member's professional appointment that are heard by the peer review committees (Section 14.2 below), and
- All others (see Section 14.3 below, Complaint Process)

14.2. PEER REVIEW PROCESS

The Peer Review Process is confidential except as agreed to by the grievant faculty member and the University, through its appointed representatives, or as provided herein, or as may be required in a court of law.

14.2.1. MATTERS SUBJECT TO PEER REVIEW

Only the following matters, all of which affect a faculty member's professional employment at the University, may be appealed to or heard by the Peer Review Process:

- Denial of reappointment, promotion or tenure;
- Cases involving alleged illegal discrimination, except for cases of alleged sexual discrimination which are covered in Section 16.8, Sexual Harassment/Gender Discrimination, of this Handbook;
- Cases involving alleged violation of professional ethics and responsibilities, as set forth in Section 16.3, Professional Ethics and Responsibilities, in this Handbook;
- Termination for medical reasons, as set forth in Section 10.5, Termination for Medical Reasons, in this Handbook;
- Program reduction and faculty reassignment, as set forth in Section 10.6 in this Handbook;
- Termination for cause, as set forth in Section 10.8, Termination For Cause, in this Handbook; and
- Cases involving disagreement with a post-tenure review development plan, as set forth in Section 9.6.4 in this Handbook.

The Peer Review Process will deal with appeals and grievances of matters listed above only for persons who receive a faculty contract; no person who receives an administrative contract (e.g. director, dean, associate provost, vice president) may utilize the Peer Review Process.

Section 14.3, Complaint Process, applies to all other complaints, grievances and appeals by faculty members.

14.2.2. COMPOSITION OF PEER REVIEW COMMITTEES

14.2.2.1. MEMBERSHIP OF THE COMMITTEES

There shall be two peer review committees. The Peer Review Advisory Committee shall consist of five members and five alternate members. The Peer Review Hearing Committee shall consist of five members and five alternate members. Alternate members of either Peer Review Committee may be called upon to serve on the other Peer Review Committee; however, no alternate can serve on both Committees to hear the same case. If it is necessary to constitute a full committee, the Faculty Senate Executive Committee shall appoint members to serve until elected members replace them. Members will serve four-year terms beginning on July 1 of the initial year and extending through June 30 of the final year of service. If a

Commented [KF1]: Committees

Commented [KF2]: 16.2

hearing is in progress, Committee members are required to continue their service beyond June 30 of the final year until the hearing is concluded.

14.2.2.2. ELECTION OF THE COMMITTEE MEMBERS

The members of the Peer Review Committees will be elected at large by the full-time faculty of the University eligible to vote for Faculty Senators. The election shall be conducted by the Faculty Senate Elections Committee. Nominations shall be sought from all full-time faculty eligible to vote for Faculty Senators.

Elections will be held according to the schedule of elections developed by the Elections Committee of the Faculty Senate. Members shall be elected by frequency of votes. In event of a tie, the matter will be settled by the Elections Committee, with the advice and consent of the affected individuals and the President of the Faculty Senate. Membership on the Peer Review Committees should be from a broad representation of the University faculty; therefore no Department will be represented by more than one faculty member on each Committee.

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14.2.2.3. TERMS OF THE COMMITTEE MEMBERS

Members of the Peer Review Committees must be tenured full-time faculty. They shall serve staggered four-year terms (1 July to 30 June) to provide continuity of membership. The alternates will serve two-year terms (1 July to 30 June).

14.2.2.4. CHAIRS OF THE COMMITTEES

Each committee will elect a chair who shall serve for one year.

14.2.2.5. CONFLICT OF INTEREST

No member of either Peer Review Committee shall serve in the appeal or review of any matter arising from the department(s) of his/her appointment, in any case in which the member participated in any prior to referral to the Peer Review Committee on which the member participates, nor in any matter in which the member may legitimately be called as a witness. It is the responsibility of committee members to exclude themselves from participating on a committee in any proceeding in which they have any other conflict of interest.

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Commented [KF5]: Omit "to"

14.2.3. PROCEDURE

14.2.3.1. FILING THE PETITION

Any faculty member wishing to initiate a review by the Peer Review Process must file with the provost one original and eight copies of a written petition. The provost shall retain the original and the eight copies should be sent to:

Commented [KF6]: Specify that electronic version is acceptable.

- Copies 1 – 5 shall go to the Chair of the Peer Review Committee,
- Copy 6 shall go to the dean of the college in which the faculty member resides,
- Copy 7 shall go to the department chair/school director in which the faculty member resides,
- Copy 8 shall go to either the chair of the Reappointment, Promotion and Tenure committee in the department in which the faculty member resides or other respondents to the grievance.

Commented [KF7]: Insert "Advisory"

Commented [KF8]: Insert "or school"

The petition must:

- Clearly state the nature of the grievances and any/all attempts that the faculty member has made to resolve the grievance(s); only those grievances listed in Section 14.2.1 of the Handbook can be investigated by the Peer Review Committees.
 - If the faculty member wishes to submit supporting documentation, one original and eight copies of the documentation must be included with the copies of the written petition to the provost. Although decisions regarding the inclusion of supporting documentation are the sole responsibility of the faculty member, the Peer Review Committees discourage the submission of documents unrelated to the specific grievance(s).
- Be filed within the time limits prescribed by the applicable section of this Handbook; for reappointment, promotion, and/or tenure decisions the time limit is fifteen (15) University working days of receipt of the notice from the provost (Section 3.2.13); if no time limit is prescribed elsewhere in this Handbook, the petition must be filed no later than 60 days of the date of the alleged grievous conduct; if a petition is filed after the prescribed time, it shall be dismissed.

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Commented [KF10]: section 3.2.14

14.2.3.2. WITHDRAWING THE PETITION

An aggrieved faculty member may withdraw a petition for Peer Review at any time prior to the completion of the Peer Review Process. The faculty member must file a written request with the provost asking that the petition be withdrawn. Withdrawal of the petition shall be effective on the date the written request is received in the office of the provost and all further consideration of the petition shall cease immediately.

14.2.4. PEER REVIEW ADVISORY COMMITTEE

14.2.4.1. INITIATING THE PROCESS

Within five (5) working days of receipt of a timely filed petition and any supporting documentation, the provost shall forward copies of the petition and any supporting documentation received from the faculty member to the Chair of the Peer Review Advisory Committee, the dean of the college in which the aggrieved faculty member resides, the department chair/school director, the chair of the Reappointment, Promotion and Tenure Committee of the grievant faculty member's department/school, and/or any other legitimate respondent to the grievance.

Commented [AM11]: Delete reworded with bullets below and additions

Within five (5) working days of receipt of a filed petition, the provost shall forward the copies of the petition and any supporting documentation received from the faculty member to:

- the dean of the college in which the faculty member resides,
- the department chair/school director,
- if the grievance is pertaining to tenure, promotion or reappointment, the chair of the Reappointment, Promotion and Tenure Committee
- and/or other respondents to the grievance.

Commented [KF12]: If the grievant files the petition electronically (proposed change to 14.2.3.1), there is no need for the provost to forward copies to these parties. The parties will already have the petition.

The chair of the Peer Review Advisory Committee will provide each Advisory Committee member with copies of all correspondence.

Commented [KF13]: If the grievance does not pertain to tenure, promotion, or reappointment, then other respondents to the grievance

14.2.4.2. THE COMMITTEE PROCESS

Upon receipt of a petition and any supporting documentation for peer review, the dean of the college in which the faculty member resides, the department chair/school director, the chair of the Reappointment, Promotion and Tenure Committee, and/or other respondents may each file a written response to the petition, including supporting evidence, with the Peer Review Advisory Committee within ten (10) University working days of receipt of the faculty member's documentation. Any respondent filing a written response to the petition shall provide the grievant with a copy of said response. The grievant faculty member may respond in writing within ten (10) University working days of receipt of the response(s) from the dean, department chair/school director, chair of the Reappointment, Promotion and Tenure Committee, and/or other respondents. The chair of the Peer Review Advisory Committee will notify, in writing, all the parties described above of their right to submit a response and will provide each Advisory Committee member with copies of all correspondence.

Normally the Peer Review Advisory Committee will meet no more than ten (10) University working days after receipt by the committee's chair of the petition and all of the responses described in the previous paragraph.

Within ten (10) University working days of receipt of the faculty member's documentation from the provost, those noted below have a right to submit a written response to the petition and to include supporting evidence. The written response should be sent to the provost within 10 University working days of receipt of the faculty member's documentation

1. the dean of the college in which the faculty member resides,
2. the department chair/school director,
3. if the grievance is pertaining to tenure, promotion or reappointment, the chair of the Reappointment, Promotion and Tenure Committee
4. and/or other respondents to the grievance.

Within ten (10) University working days of receipt of the above noted responses, the grievant faculty member may respond in writing.

No more than ten (10) University working days following the above noted responses, the chair of the Peer Review Advisory Committee will convene the meeting of the committee.

The chair of the Peer Review Advisory Committee will convene the meeting of the committee. A quorum of the committee shall consist of four of the five members. Alternate members may be used as necessary. Based upon the written information it has received, the committee members will determine whether a prima facie case for a hearing by the Peer Review Committee is presented. All committee members present shall vote. The committee's determination shall be conveyed in writing to the petitioning faculty member, to the president of Faculty Senate, and to the provost, all within three university working days of the committee's decision. If the Committee determines that no prima facie case was presented, the petition will be dismissed by the Committee, accompanied by written reasons explaining the committee's decision. If the committee determines that a prima facie case was presented, the case shall be returned to the provost for further action. If there is a tie vote, the grievant faculty member's petition shall be forwarded to the provost for further proceedings with a finding that a prima facie case is presented. The entire committee file and record, including the petition and all copies of written statements and documents, shall be forwarded to the provost. If the petition has been dismissed, there shall be no further peer review proceedings. The provost is responsible for safekeeping the record

Commented [AM14]: Delete reordered with some additions

Commented [KF15]: Replace with "petition"

Commented [KF16]: In the paragraph above, the written response is sent to the Peer Review Advisory Committee.

Commented [KF17]: petition

Commented [AM18]: I worked on this section, but after reading 14.2.5.3. SCOPE OF REVIEW, 14.2.5.3.1. REAPPOINTMENT, PROMOTION AND/OR TENURE (page 7) I'm not sure that any of this applies to the RPT decision.

My question is this, if the scope of the decision is what is stated in 14.2.5.3.1 then if a prima facie is found, then shouldn't the RPT committee reconvene with the written decision of the committee?

Because if a prima facie is found, then isn't the committee operating outside the boundaries of the policy? Shouldn't the committee be directed to work within the boundaries of the policy?

If so, then it seems the Scope section should within the committee process and the resolution by negotiation should only be included for the grievances that are not RPT decisions.

Commented [KF19R18]: Section 14.2.1 suggests that RPT matters fall under the purview of the peer review advisory committee, though this is not explicit.

STOP HERE

Below is what was drafted in April of 2020. Please read the note on page 4 before moving onto this section.

A quorum of the committee shall consist of four of the five members. In the case of a conflict of interest, alternate members may be used as necessary. All committee members present shall vote.

Based upon the written information received, the committee members will determine whether a prima facie case for a hearing by the Peer Review Committee is presented.

- If the Committee determines that no prima facie case was presented, the petition will be dismissed by the Committee. If the petition has been dismissed, there shall be no further peer review proceedings.
- If the committee determines that a prima facie case was presented or if there is a tie vote, the case shall be returned to the provost for further action per the procedure set forth in Section 14.2.4.3 Resolution by Negotiation

Within three (3) university working days of the committee's decision, the Committee will notify all parties of their determination in writing.

- the aggrieved faculty member
- the Chair of the Peer Review Advisory Committee,
- the dean of the college in which the aggrieved faculty member resides,
- the department chair/school director,
- and/or any other legitimate respondent to the appeal, including the chair of the Reappointment, Promotion and Tenure Committee if the grievance is pertaining to tenure, promotion or reappointment

Commented [KF20]: The chair will be aware of the committee's decision. Should the Faculty Senate president be notified? (See paragraph at bottom of page 4.)

Commented [KF21]: Omit "or"

The entire committee file and record, including the petition and all copies of written statements and documents, shall be forwarded to the provost. The provost is responsible for safekeeping the record.

14.2.4.3. RESOLUTION BY NEGOTIATION

In the event that the Peer Review Advisory Committee determined that a prima facie case was presented, the provost may review the entire record to determine whether the petition might be resolved by negotiation. The provost may consult with his/her staff, the deans of the University's colleges, and/or other appropriate persons while making this decision. In that event the entire record may be reviewed by those consulted so that proper advice may be given.

If the provost determines that negotiation might resolve the matter, he/she or his/her designee shall negotiate with the grievant faculty member for the purpose of seeking a mutually agreeable settlement. If such a settlement is reached, it will be reduced to writing and signed by the provost and the faculty member. Such an agreement shall not become binding on either party until approved by the university president and Board of Regents, if required. Approval of the Board of Regents is required only as to matters that the Board of Regents must approve, such as reappointment, promotion and grant of tenure.

Commented [AM22]: Delete, reordered below and some changes/additions

In the event that the Peer Review Advisory Committee determined that a prima facie case was presented, the provost may review the entire record to determine whether the petition might be resolved by negotiation.

Commented [AM23]: Within how many days?

In making this decision, the provost shall consult with all parties below and ensure all parties have a copy of the entire record

- the aggrieved faculty member
- the Chair of the Peer Review Advisory Committee,
- the dean of the college in which the aggrieved faculty member resides,
- the department chair/school director,
- and/or any other legitimate respondent to the appeal, including the chair of the Reappointment, Promotion and Tenure Committee if the grievance is pertaining to tenure, promotion or reappointment

Commented [KF24]: Omit "or"

If the provost determines that negotiation might resolve the matter, he/she or his/her designee shall negotiate with all parties noted above for the purpose of seeking a mutually agreeable settlement.

- If such a settlement is reached, it will be reduced to writing and signed by the provost and the faculty member.
- Upon settlement, the provost shall notify in writing all parties to the grievance.

Commented [KF25]: This represents a departure from existing language: the provost negotiates only with the aggrieved faculty member (see page 5).

Such an agreement shall not become binding on either party until approved by the university president and Board of Regents, if required. Approval of the Board of Regents is required only as to matters that the Board of Regents must approve, such as reappointment, promotion and grant of tenure.

NO FURTHER EDITS

14.2.4.4. NON-RESOLUTION BY NEGOTIATION

If the petition for peer review is resolved by negotiation, there shall be no further peer review proceedings. If negotiation was not pursued by the provost or the matter was not successfully resolved by negotiation, the provost shall expeditiously forward the petition to the chair of the Peer Review Hearing Committee and to the president of Faculty Senate.

14.2.5. PEER REVIEW HEARING COMMITTEE

14.2.5.1. REPRESENTATION AT THE HEARING

The provost may designate him/herself, a dean of a college within the University, but not the college in which the grievant faculty member is assigned, or a department chair, but not the chair of the department in which the grievant faculty member is assigned, to be the University representative before the Peer Review Hearing Committee.

14.2.5.2. TIMING OF THE HEARING

The Peer Review Hearing Committee shall proceed expeditiously to schedule a hearing and reach a decision.

14.2.5.3. SCOPE OF REVIEW

14.2.5.3.1. REAPPOINTMENT, PROMOTION AND/OR TENURE

When hearing a case involving denial of reappointment, promotion and/or tenure, the Peer Review Hearing Committee may receive evidence and consider only the following in order to determine whether or not the faculty member's rights have been violated:

- Whether or not the policies and procedures set forth in Sections 3, Evaluation; 4, Reappointment; 5, Promotion; 6, Tenure and/or 7, Appointment, Reappointment, Promotion, and Tenure for Librarians of this Handbook were correctly followed in reaching a decision affecting the faculty member's professional appointment;
- Whether or not the faculty member received a reasonable opportunity to present his/her side of the matter at issue; and/or
- Whether or not the decision affecting the faculty member's professional appointment was made in a fair and/or reasonable manner, i.e. whether there was some rational basis to support the decision.

14.2.5.3.2. ILLEGAL DISCRIMINATION

When hearing a case involving alleged illegal discrimination (except cases of alleged sexual harassment/gender discrimination which are covered by different procedures and not within the purview or responsibility of the Hearing Committee), the Hearing Committee shall determine whether there was illegal discrimination which affected the decision from which the appeal is taken, and if there was illegal discrimination, make a recommendation for a remedy.

14.2.5.3.3. VIOLATION OF PROFESSIONAL ETHICS AND RESPONSIBILITIES

When hearing a case involving alleged violation of professional ethics and responsibilities, the Hearing Committee shall be guided by Section 16.2 of this Handbook. The Hearing Procedures provided below apply.

14.2.5.3.4. TERMINATION FOR CAUSE

When the Hearing Committee is hearing a case of termination for cause, the Committee shall be guided by Section 10.8, Termination for Cause. The Hearing Procedures provided below are modified in Section 10.8.

14.2.5.3.5. TERMINATION FOR MEDICAL REASONS

When the Hearing Committee is hearing a case of termination for medical reasons, the Committee shall be guided by Section 10.5, Termination for Medical Reasons. The Hearing Procedures provided below apply.

14.2.5.3.6. PROGRAM REDUCTION AND FACULTY REASSIGNMENT

When the Hearing Committee is hearing a case of program reduction and faculty reassignment, the Committee shall be guided by Section 10.6, Program Reduction and Faculty Reassignment. The Hearing Procedures provided below apply.

14.2.5.4. HEARING PROCEDURES

14.2.5.4.1. QUORUM

A quorum of the committee shall consist of four of the five members. Alternate members may be used as necessary.

14.2.5.4.2. PRIORITY

Hearings involving non-reappointment or termination shall be given preference over all other cases.

14.2.5.4.3. STATEMENT AND WITNESS LISTS

The committee must request a written statement of the grievant's case and a written list of witnesses. The University representative must be given an opportunity to respond with a written statement of the University's case and a written list of witnesses. These statements and witness lists must also be exchanged between the grievant and the University representative.

14.2.5.4.4. CLOSED HEARING

Hearings will be closed unless both the grievant faculty member and the University representative agree to an open hearing. That agreement must be in writing and signed by both the grievant faculty member and the University representative, and will be subject to approval by the provost and the University president.

14.2.5.4.5. ADVISORS

The grievant faculty member may bring a person, including an attorney, to serve as an advisor. This shall be at the grievant faculty member's expense. If the grievant faculty member intends to bring an advisor, that fact shall be communicated to the Hearing Committee and to the University representative within five university working days of the day on which the grievant faculty member is asked to give the committee a list of witnesses. If the grievant faculty member brings an advisor, the University representative may bring an advisor, including an attorney if the grievant's advisor is an attorney. Neither advisor may address the Hearing Committee nor question any witness(es); the sole role of the advisor shall be to advise the person to whom they are the advisor.

14.2.5.4.6. FORM AND PROCEDURE

Hearings shall be non-adversarial in form and procedure. The committee shall seek to learn the truth. The rules of evidence binding upon courts of law are not to be observed; however, the committee shall seek to keep the evidence received pertinent to the issue(s) raised in the proceeding.

14.2.5.4.7. EVIDENCE AND WITNESSES

The grievant faculty member may present evidence and call witnesses and submit documentation, all of which must be pertinent to the issue(s) raised. Thereafter the University representative may present evidence and call witnesses and submit documentation, all of which must be pertinent to the issue(s) raised. The Committee may call any witness(es) and request any documentation it deems appropriate and

pertinent to its investigation. The grievant, the University representative, and the committee shall all be given the opportunity to question each witness before that witness is excused.

14.2.5.4.8. HEARING TRANSCRIPT

A complete transcript of the hearing shall be made, including all written documents submitted by any person or witness. The transcript shall be reduced to writing.

14.2.5.5. DECISION OF THE COMMITTEE

Following completion of the hearing and upon receipt of the complete transcript, the Peer Review Hearing Committee shall promptly meet to deliberate and reach a decision. The decision shall be determined, following discussion, by simple majority vote, which may be by secret ballot, including the vote of the committee chair. A tie vote must be reconsidered. In the event the final committee vote is a tie vote, the grievant faculty member's petition shall be dismissed. The committee may make the recommendation(s) it deems appropriate, within the scope of its charge as stated above. The decision and recommendations shall be in writing. The decision and recommendation(s) must be based upon written findings of fact, which may be a separate document or included in the decision and recommendation(s).

14.2.5.6. COMMITTEE REPORT

The Peer Review Hearing Committee's written findings of fact, decision and recommendation(s) shall be delivered to the University president, to the president of Faculty Senate, and to the grievant faculty member within five (5) University working days of reaching its decision. The University president and faculty member shall each receive a copy of the complete transcript of the hearing, including all documents received in evidence.

14.2.5.7. PRESIDENT'S DECISION

If the matter does not have to be presented to the Board of Regents for a decision, then upon receipt of the written findings of fact, decision and recommendation(s) of the Peer Review Hearing Committee, the president shall make a decision. If the matter requires action by the Board of Regents, the president shall formulate a recommendation to the Board of Regents. In doing so, the President may consult with the provost and with the deans of the University's colleges, and in that event the provost and the deans may have access to the complete transcript, documents received in evidence, and to the written findings of fact, decision and recommendation(s). The president shall communicate his/her decision or recommendation to the grievant faculty member, to the provost and to the Board of Regents.

14.2.5.8. BOARD OF REGENTS' DECISION

If the decision must be made by the Board of Regents, the president shall forward his/her recommendation and all previous recommendations pertaining to the hearing to the Board of Regents for final action. The Board of Regents shall deliberate the case and reach its decision. The Board of Regents shall communicate its decision to the president, the provost and to the faculty member, which may be through the president. The president shall implement the Board's decision.

14.3.

14.2.5.9. COMMUNICATION

In the event that the case provides instruction to any aspect of the University and its procedures, the president may provide a means for that instruction to be communicated to appropriate persons, with confidentiality of the Peer Review Process otherwise maintained.

14.2.5.10. KEEPING OF THE RECORD

The President is responsible for safekeeping the record.

COMPLAINT PROCESS

The following process will apply to all complaints other than those heard by the peer review committees and those not covered elsewhere in this Handbook.

14.3.1. PROCESS APPLICABILITY

A faculty member initiates the complaint process when a concern can no longer be resolved through informal discussion and is not governed by the peer review process.

14.3.2. COMPLAINT PROCESS PROCEDURE

The faculty member addresses the complaint in writing to his/her department chair, with copies to the appropriate dean and the provost. The complaint should identify clearly the nature of the concern and record any earlier attempts to resolve the complaint through discussion.

If the matter remains unresolved at the chair's level, the faculty member may address the complaint in writing to the appropriate dean with copies to the provost and the department chair.

If the matter remains unresolved at the dean's level, the faculty member may address the complaint in writing to the provost with copies to the department chair and the dean.

The provost or an associate or vice provost assigned at the provost's discretion will provide oversight throughout the complaint process and will ensure that careful consideration is given to the complaint at every level without prejudice to the complainant.

The department chair, the dean, and the provost are required to respond to the complainant in writing.

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14.3.3. COMPLAINT ADVISORY COMMITTEE

Each college shall elect one at-large member to serve on the Complaint Advisory Committee. The members shall serve staggered two-year terms. This election will be conducted by the Faculty Senate at the time of other Faculty Senate elections. Members of the Complaint Advisory Committee will be full-time tenured faculty.

The vice president of the Faculty Senate shall be responsible for calling the first meeting of the Committee, which will then choose a chair from among its elected members. The vice president of the Faculty Senate will also act as an alternate member of the Complaint Advisory Committee should one be needed because of illness or conflict of interest. The Complaint Advisory Committee may be called on to

review any complaint and make recommendations to either the department chair or the dean during the procedure outlined in Section 14.3.2, above. If the complaint is addressed in writing to the provost, the provost is required to consult the Complaint Advisory Committee, which will then make recommendations in writing to the provost for resolution of the complaint. The provost and the Complaint Advisory Committee will work as expeditiously as possible to resolve the complaint promptly. The Complaint Advisory Committee shall be provided copies of the written complaint, all written correspondences of the administrator(s) and the complainant, and if the Committee considers it necessary, it may meet with the complainant and others mentioned in the complaint. The complainant and the vice president of Faculty Senate shall also receive a copy of the Complaint Advisory Committee's recommendations.

A member of the Complaint Advisory Committee may not hear a complaint if he/she is from the same department as the complainant. In this event, the vice president of the Faculty Senate will serve as alternate.