

Professional Concerns Committee  
November 18, 2021, at 3:30pm  
Agenda

1. Call to Order, Adoption of the Agenda
2. Approval of the minutes from the November 4 meeting
3. Chair's Report and Announcements
4. New Business: Discussion of dual-enrollment (high school) draft policy revision
5. New Business: Discussion of grievances (Handbook section 14)
6. Adjournment (4:30pm)

# Professional Concerns Committee

## Minutes for November 18, 2021

### Hybrid Meeting (SU 108 and Zoom Conferencing Software), 3:30 pm

**Members in Attendance:** S. Alexander, R. Boyce, T. Cata, K. Fuegen, R. Gall, N. Grant, B. Green, P. Hare, G. Hatchett, J. Herman, K. Katkin, A. Miller, K. Muentz, M. Providenti, H. Riffe, G. Sun, J. Washburn-Moses, M. Washington

**Guests in Attendance:** J. Bloch, G. Hiles, J. Vest,

**Members Not in Attendance:** W. Darnell, L. Dynan, B. Karrick, M. Nakamura, G. Newell

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#### 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 November 4 meeting

- a) Draft minutes from the November 4 meeting were approved without dissent (with the modification of the date at the top of the minutes to be corrected from "October 21, 2021" to "November 4, 2021").

#### 3. Chair's Report and Announcements

- a) **Faculty Senate:** Senate has not met since our previous meeting.
- b) **Redaction of Student Comments Update:** Two weeks ago, we discussed whether NKU ought to adopt a procedure for faculty to request redaction of student comments that do not relate to the instructor's effectiveness or that are harassing, threatening, defamatory, or discriminatory. This group recognized that there are problems inherent in student evaluations of instruction (SEI), but had concerns about who would be responsible for judging whether a comment ought to be redacted. Members also questioned whether redacting comments would remove the context for low numerical ratings. K. Fuegen will explore strategies for problems associated with student evaluations.
  - i. **PCC Subcommittee to Explore Redaction of Student Comments:**  
Subsequent to that meeting, PCC member H. Riffe approached K. Fuegen about forming a subcommittee to explore the feasibility of NKU adopting a procedure that would enable redaction of comments. K. Fuegen agreed that this is an issue that PCC ought to explore further. K. Fuegen looks forward to hearing the recommendations of this subcommittee.
  - ii. **Executive Committee discussion on Redaction of Student Comments:**  
The Faculty Senate Executive Committee talked at length about whether NKU ought to adopt a procedure for faculty to request redaction of student comments that do not relate to the instructor's effectiveness or

that are harassing, threatening, defamatory, or discriminatory. There was concern expressed that a heavy reliance on SEIs to measure teaching effectiveness risks watering down instruction. Students' expectations of their course grades do predict variance in ratings. As such, there is an incentive for instructors who need high ratings for tenure and promotion (or to be invited to teach the course again; adjunct instructors) to inflate grades. We need to measure teaching effectiveness holistically.

- iii. **TEEC Discussion on Redaction of Student Comments:** Chris Lawrence, chair of TEEC, acknowledged that there is bias in SEIs. He cautioned that leaving discriminatory comments in SEIs is a way to draw attention to the limitations of this measure. C. Lawrence commented that some departments use peer review of teaching – peers will observe and write letters based on the observation. There are advantages and disadvantages to peer review.
- c) **Humana Contract Ending:** Charlisa Daniels (Benefits Chair) indicated that the university will end its contract with Humana in 2022. There is discussion about joining forces with other Kentucky universities to get a better deal on health insurance. Expect a new insurance carrier during next year's enrollment period.
- d) **Board of Regents Updates:** The Board of Regents approved changes to sections 6.7 (tenure and timing of tenure) and 12 (faculty development awards) of the Faculty Handbook during its meeting yesterday.
- e) **Peer Review Volunteers Needed:** While yesterday was the deadline, tenured faculty volunteers are still needed. Contact Grace Hiles to volunteer before the end of Friday 11/19/21.

#### 4. New Business

- a) **Discussion Item: Dual-enrollment (high school) draft policy revision**  
**Background:** This policy addresses school-based scholars who are taking college classes through NKU at their high schools. The updates incorporate NKU's interim test optional policy. AAPC has reviewed the proposed revisions. The comment period has been extended for the PCC discussion.

**Discussion:**

-- The feedback a faculty member got when submitting a comment is that we need to compete with other universities in the state.

-- High schools like the dual-enrollment program. High schools are using this as an option rather than as high school electives. This can be beneficial to many high school students financially but students are not always prepared for the work in school-based scholar classes. While high schools should ensure the students are ready, NKU faculty need to remember that high school sophomores and juniors are not college students. High school students *should* struggle at this level. What does it mean if a high school student finds one of these course too easy? These are not like AP classes in which, if they don't pass the AP exam, it was still an honors class on a high school transcript. Dual-enrollment classes are

college classes that will be on their college transcript. Students who struggle in dual-enrollment courses have a disadvantage that high school students without school-based scholar experience don't have. Freshman don't always understand the long-term consequences of bad grades in college. High schools students don't always understand they can be dropped for non-attendance (not how high school works).

-- Concern: Students who have not done well in the school-based scholars program have had difficulty gaining admission to some NKU programs. This is a great opportunity for students *who are ready* but these are high school students and there are long-term consequences when students get Fs and Ds in college classes.

-- Students are not advised to take 7-week accelerated classes but they do enroll in them anyway.

-- College students have trouble in 7-week courses. High school students should be expected to have trouble in them.

-- The data provided by James Catchen suggests students are doing fine:

Spring 2021 7- week 1:

- There were 146 grades assigned to SBS students in 7- week 1 classes
- 92% of the grades were C or better
- 5% of the grades were W
- 2% of the grades were D or F

There were similar results for Fall 2021 7- week 1

-- The ACT was the prompt to determine that students were eligible to enroll -- that has been removed in this draft. GPA is not always a good indicator of preparedness.

-- Grade distribution should be examined to see if there is grade inflation.

-- Why do we have high school if so many high school students do well in college classes?

-- What recommendations can PCC make to promote the success of school-based scholars? Or is this a high school counseling issue?

-- Could we still require the ACT for school-based scholars? (K. Fuegen: the draft policy says test scores must be provided if they are a prerequisite for the course.)

-- Could the policy prevent school-based scholars from taking 7-week accelerated courses?

-- Proposed action: K. Fuegen could submit a comment on the policy website suggesting high school school-based scholars should not be taking 7-week accelerated courses.

-- Do we need more data?

-- The data shows they are doing well but that is not true in some departments. There are 16-week versions of the 7-week accelerated courses that would be more appropriate for school-based scholars.

-- Could some departments restrict their 7-week accelerated classes? (This has been tried but school-based scholar online students can get into restricted

classes.)

**Action:** Individual PCC members with concerns should submit comments on the policy website. Contact Janel if you need more time.

b) **Discussion Item: Grievances (Handbook section 14)**

**Background:**

This policy needs some minor edits (e.g., it calls for the distribution of paper copies). There are also larger issues due to ambiguity. Who can file a grievance? How a conflict of interest is handled (e.g. what if the Provost is named in the grievance). H. Riffe and R. Boyce have recently served on the grievance committee.

PCC will look at:

- What matters are subject to peer review? (Section 14.2.1, the topic of this meeting's discussion)

In later PCC meetings:

- Who can serve on the committee?
- How to address a conflict of interest?
- How to file a petition?

**Discussion:**

- What matters (outside RPT) are subject to peer review?

- There is a separate parallel complaint advisory process, separate from grievance process, that is a catch-all for other issues. We also have a faculty advocate, another process not addressed in the Handbook, which can lead to informal resolutions.

- Suggestion: don't brainstorm about more things to put into a formal process. We need to know where the formal procedure falls short in some matters.

- Suggestion: remove the second bullet point about "cases involving alleged illegal discrimination...." Legal issues are not appropriate for non-lawyers to consider.

- Legal counsel and human resources represent the university, not the faculty. Where should these issues be presented? What about removing the word "illegal"?

- Should there even be a bullet point for discrimination? Alleged discrimination could be a component addressed within the context of the other bullet points in 14.2.1.

- Agreement that faculty should not deal with "illegal" issues – but faculty *can* deal with discrimination.

- Suggestion: Change "alleged illegal discrimination" to "alleged bias"?

- Comment: Bias is not a problem – we want the right kind of discrimination.

Example: we want to discriminate between good and bad performance.

- Another suggestion to remove the second bullet point about discrimination.

**Action:**

Think about the wording “alleged bias” and removing the word “illegal” versus removing the entire second bullet point. We will continue the discussion at the 12/2/21 PCC meeting.

**5. Adjournment**

- a) The meeting adjourned at 4:30pm.

Submitted,

M. Providenti, Secretary

## 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]:** Does this list encompass all matters that ought to be subject to peer review? Are there any matters that ought to be added?

**Commented [KF2]:** Committees

**Commented [KF3]:** 16.2

**Commented [KF4]:** Do we want to clarify that this policy applies to tenure-track and non-tenure-track faculty? Full-time and part-time faculty?

From the Handbook preface: “This Faculty Handbook is intended to define the rights and obligations of the Northern Kentucky University administration and faculty members.”

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. Persons holding full-time administrative appointments, as defined in Section 1.8.1, are not eligible to serve on the peer review committees.

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 or School will be represented by more than one faculty member on each Committee.

#### 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) or school of his/her appointment, in any case in which the member participated 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 a real or apparent ~~by other~~ conflict of interest. Prior to filing a petition, the grievant shall be given the opportunity to object in writing to the presence of any member of the Peer Review committees, based on conflict of interest. If the member does not recuse him- or herself, this fact shall be noted in the committee's report.

### 14.2.3. PROCEDURE

#### 14.2.3.1. FILING THE PETITION

**Commented [KF5]:** It might be argued that a peer review committee comprised entirely of tenured faculty is not a committee of one's peers, if the grievant is non-tenure track. Do we need to clarify that peers are faculty, regardless of tenure status?

**Commented [KF6]:** Added to clarify who may serve. Section 1.8.1: "Full-time administrators with academic rank are members of the University administration who hold faculty rank in probationary or tenured positions. Such persons may be assigned teaching responsibilities. This provision is intended to encompass high-level administrators, e.g. the President, vice presidents, deans, and other similarly situated persons."

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**Commented [KF7]:** Should department chairs or school directors be eligible to serve on the committee, provided that they are in a different department/school than the grievant?

**Commented [KF8]:** Do we need to define conflict of interest? COI is defined in the research misconduct policy as follows: A conflict of interest may include, but is not limited to, co-authorship on a paper or book a professional or personal relationship, professional or personal relationship or antagonism, financial ties, or contact regarding possible employment with either the respondent or the complainant.

**Commented [KF9]:** Adapted from 16.7.4.3: formal investigation of research misconduct



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 [KF10]: Specify that electronic version is acceptable.

- Copies 1 – 5 shall go to the Chair of the Peer Review Advisory 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 or school in which the faculty member resides or other respondents to the grievance.

Commented [KF11]: Only relevant if he grievance pertains to tenure, promotion or reappointment; otherwise, send a copy to other respondents to the grievance

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 3.2.134); 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.

Commented [AM12]: Indented

#### 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 [AM13]: 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.

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

#### 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

**Commented [KF14]:** 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.

**Commented [KF15]:** If the grievance does not pertain to tenure, promotion, or reappointment, then other respondents to the grievance

**Commented [AM16]:** Delete reordered with some additions

**Commented [KF17]:** Replace with "petition"

**Commented [KF18]:** In the paragraph above, the written response is sent to the Peer Review Advisory Committee.

**Commented [KF19]:** petition

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

**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

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

**Commented [AM20]:** 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 be within the committee process and the resolution by negotiation should only be included for the grievances that are not RPT decisions.

**Commented [KF21R20]:** Section 14.2.1 suggests that RPT matters fall under the purview of the peer review advisory committee, though this is not explicit.

**Commented [KF22]:** 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 [KF23]:** Omit "or"

**Commented [KF24]:** If the provost is named in the grievance, s/he has a conflict of interest.

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 [AM25]: 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 [AM26]: 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 [KF27]: 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 [KF28]: 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.

## SECTION 14.2

### 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.

#### **14.2.5.9. 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.

### **14.3.**

#### **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.

## **15.**

### **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.