COLLEGE OF EDUCATION AND HUMAN DEVELOPMENT

FACULTY GRIEVANCE PROCEDURES

ADOPTED FACULTY AFFAIRS COMMITTEE MARCH 6, 1996
AMENDED FEBRUARY 9, 1998
AMENDED DECEMBER 10, 2010
AMENDED January 16, 2014
AMENDED May 7, 2015
AMENDED APRIL 21, 2017
A. Applicability.

This procedure shall apply to complaints relating to, allegations of arbitrary or capricious decisions affecting the faculty member’s employment or professional reputation; and allegations by a faculty member or group of faculty members that the faculty member’s contract has been violated, EXCEPT that this procedure shall NOT apply to matters covering under Article XI, Section 24, “Institutional Regulations for Removal of Faculty Members” or to matters related to administrative appointments or responsibilities. Allegations of discrimination including those on the basis of race, creed, color, national or ethnic origin, religion, age, sex, sexual orientation, or handicap in any educational or employment program, policy, procedure, or practice of Georgia State University should be directed to Opportunity Development and Diversity Education Planning Office (ODEP).

B. Definitions.

1. A complaint is an allegation of a misinterpretation, incorrect application, or violation of a policy, practice, or procedure not pursued by the faculty member in a forum outside the University. The use of this grievance procedure is not available if a formal complaint is filed with a governmental agency or a court action has been initiated based upon substantially similar facts, in which case any investigation then in progress by the University will be terminated relative to the grievance process.

2. A complainant is a faculty member who seeks resolution of a complaint through the informal or formal procedures as outlined herein.

3. A respondent is a person against whom a complaint is filed.

4. The Hearing Panel is formed according to the procedures described in this policy. It is charged with hearing complaints, and making recommendations regarding the complaints.

5. For purposes of counting, a day is any business day except in cases where the policy explicitly states calendar days. If a deadline falls on a weekend or scheduled University holiday, then deadline will be the next scheduled workday of the University.

6. A formal hearing as outlined in section ‘E’ only occurs during the academic year (Fall and Spring terms). If a complaint is initiated during the summer term, or during the spring term with insufficient time for the formal hearing to occur, the hearing procedure will be followed during the fall.

C. Informal Procedures.

1. Before a faculty member brings a formal complaint, the faculty member must first attempt to resolve the matter informally by discussion with the respondent or inform the respondent with an informal written complaint. This informal discussion shall be initiated by the complainant within ninety (90) calendar days of the knowledge of the consequence of event(s) upon which the complaint is based.

2. If the matter is unresolved by informal discussions, and the complainant wishes to pursue the matter, the complainant must, within one hundred ten (110) calendar
days of knowledge of the consequence of event(s), either to request mediation or submit a formal complaint by notifying the dean’s office.

3. During the mediation process, the time within which to present a written complaint is suspended (see ‘D’).

D. Optional Facilitated Conversation Procedures

1. Facilitated conversation is an option within the grievance procedure of the College of Education and Human Development and is coordinated through the Georgia State University Office of the Ombudsperson. If the complaint is not resolved by informal procedures, then the parties in the complaint may agree to facilitated conversation following the informal procedures and preceding the complainant’s request for a hearing.

2. The Office of the Ombudsperson is responsible for conducting the facilitated conversation and guidelines for that process are maintained by that office. The complainant and/or the respondent are responsible for initiating the facilitated conversation by contacting the Office of the Ombudsperson to request a meeting.

3. The information listed below shall pertain to the College of Education and Human Development mediation procedure:

a. The facilitated conversation procedure differs from typical mediation in that the facilitated conversation is more informal and does not result in written binding agreements that all parties must sign.

b. The facilitated conversation procedure is a part of the college’s grievance procedure.

c. The facilitated conversation procedure shall be used only upon mutual agreement of the complainant and respondent.

d. The facilitated conversation procedure may be terminated by the complainant, respondent, or mediator at any time.

e. Each participant in the facilitated conversation procedure shall be encouraged to participate in good faith in an effort to resolve the dispute.

f. It is expected that this process shall proceed in a timely fashion. Time limits are established by the Office of the Ombudsperson. These limits shall be observed by the complainant and respondent.

g. The Office of the Ombudsperson establishes the procedural guidelines for the facilitated conversation. Refer to that office for more specific procedural information.

E. Formal Procedures

1. Initiating a Hearing.

a. Any request for a formal hearing must be filed within one hundred ten (110) calendar days of knowledge of the consequence of event(s) except when mediation was pursued (see item ‘D’ above). If the complainant and respondent have participated in mediation, the request for a formal hearing shall be made by the end of the tenth (10th) calendar day following the date of notification to the respondent and complainant by the mediator that mediation has concluded. The request for a hearing shall be written and shall be addressed to the dean or designee and to the respondent. The complainant must initiate this formal hearing regardless of the
term (summer, fall or spring). The dean shall acknowledge in writing receipt of the complaint.

b. Initiating a formal hearing can only occur during the academic year. If the deadline for initiating the hearing falls during the summer term, then the deadline will be the first day of fall term.

c. The dean or designee shall notify the chair of the College Faculty Affairs Committee of the Request within five (5) business days of the receipt of the complaint. The notification should include only names of complainant and respondent. The Chair of the Faculty Affairs Committee will initiate the procedures for forming a Hearing Panel outlined in ‘E.2’.

d. Within 10 business days of the receipt of the complaint, the complainant shall set forth in detail the nature of the complaint and the redress sought along with any supporting documents. These materials shall be sent to the dean or designee and a copy shall be sent to the respondent.

e. The respondent shall submit a written response to the complaint, along with any supporting documents, to the dean or designee, and the complainant within ten (10) business days of receipt of the complainant’s materials. The dean shall immediately notify the chair of the College Faculty Affairs Committee of the receipt of these documents.

f. The chair of the Faculty Affairs Committee will convene the first meeting of the Hearing panel so that the panel members can elect a chair and begin the grievance process within 10 days of the receipt of the written response to the complaint.

2. Formation of Hearing Panel.

a. Panel membership. Each Hearing Panel for faculty grievances will consist of five (5) full-time tenured faculty members except in the case of a grievance by a clinical faculty member, in which case the five-member panel will include three full-time clinical faculty members who have held their appointments for at least three years. A total of eight (5 primary and 3 alternate) faculty members will be selected randomly by the use of a computer program under the direction of the College of Education and Human Development director of human resources. The selection process will exclude the department or departments of the faculty members who are the complainant and respondents in the grievance process, as well as administrators (e.g., chairs, associate deans, dean).

b. Those faculty members selected will be notified by e-mail.

c. A selected faculty member can ask to be excused because of a scheduling conflict or a conflict of interest within five days of notification of selection. Such request must be approved by the chair of the Faculty Affairs Committee. Replacements for these faculty members will be made by the CEHD director of human resources through the same process described above.

d. The complainant and respondent shall each be allowed to disqualified without cause one of the primary members of the Hearing Panel.

e. In the event a primary member cannot serve on the panel, an alternate will serve.

f. The complainant and respondent shall be allowed to request the disqualification, for cause, of any member of the Hearing Panel. The chair of the College Faculty Affairs Committee shall determine whether a statement of cause is valid grounds for removal of a member from serving on the Hearing Panel.
g. If the complainant or respondent request the removal of the College Faculty Affairs Committee chair for cause, a designated member of the Faculty Affairs Committee shall determine whether the statement of cause is valid grounds for removal. If the chair is removed for cause, the designated FAC member shall serve the role of chair of FAC for the purposes of the grievance process.

h. In the event of disqualification of Hearing Panel members such that fewer than five (5) members remain for hearing a complaint, substitute members will be selected according to the guidelines in If a hearing committee cannot be constituted according to these guidelines, the matter is referred to the University Hearing Committee.

i. The Hearing Panel chair will be elected by the Hearing Panel.

j. Until the hearing procedure in the college is complete, the group responsible for considering all matters related to the complaint shall be the Hearing Panel as constituted by these procedures.

3. Hearing procedures shall be conducted according to the following:
   a. At the initial meeting:
      i. FAC Chair will review the grievance procedures outlined in this document with the Hearing Panel.
      ii. A hearing panel chair will be elected.
   b. Because each appeal is unique, the conditions under which a given hearing will be conducted (rules, order, agenda, etc.) will be determined by the Hearing Panel after consultation with the complainant and respondent and with University Counsel.
   c. The hearing shall be considered closed unless all participants agree to the contrary.
   d. The Hearing Panel will notify the complainant and respondent in writing of the rules under which the hearing will be conducted at least ten (10) business days in advance of the hearing.
   e. A hearing will be scheduled to begin within fifteen (15) business days of the notification of the rules of the hearing.
   f. The complainant has the right to be in attendance throughout the presentation by the respondent, and the respondent has the right to be in attendance through the presentation by the complainant; the complainant and respondent have the right to be accompanied by counsel, have the right to call witnesses, and to question witnesses. Witnesses have the right to be accompanied by counsel. Counsels for the complainant and respondent and counsel for witnesses shall not have the right to address the Hearing Panel nor the witnesses unless requested to do so by the Hearing Panel. The Hearing Panel may have counsel throughout the proceedings.
   g. An audio recording of the hearing will be kept at college expense. The complainant and respondent may receive one copy each upon request.

F. Procedures Following the Hearing
   1. Decision of the Dean.
      a. Within ten (10) business days of the close of the hearing, the Hearing Panel will transmit in writing, confidentially, its findings, arguments (if any), and recommendations to the dean, complainant, and respondent by personal delivery or registered mail. Committee recommendations are not binding to the dean. The report shall be signed by all members of the Hearing Panel. In the report,
dissenting opinions to the majority shall be signed by the appropriate Hearing
Panel members.

b. Within ten (10) business days of receipt of the final report, the dean will transmit
in writing to the Hearing Panel, to the complainant and to the respondent the
dean’s decision in reference to the formal record and the actions, if any, which
will be taken.

c. The Hearing Panel has, at this point, fully discharged its obligations and shall
have no further role. Because the case may yet be appealed, Hearing Panel
members shall not comment on the hearing proceedings.

d. If the complaint is against the dean of a college, then the College Hearing
Committee report will be forwarded to the Provost and Vice President for
Academic Affairs.

2. Appeal to the Provost and the Vice President for Academic Affairs.

a. The complainant may appeal the dean’s decision to the Provost and Vice
President for Academic Affairs. The appeal must be submitted in writing within
ten (10) days of receipt of the dean’s decision. No new or additional charges may
be added to the complaint.

b. The appeal to the Provost and Vice President for Academic Affairs shall state the
complaint, the redress sought, and any supporting documentation. The Provost
and Vice President for Academic Affairs shall consider the appeal based upon
the formal record. The Provost and Vice President for Academic Affairs shall
render a decision within thirty (30) business days of receipt of the appeal request.

3. Appeal to the President.

a. The complainant may appeal the decision of the Provost and Vice President for
Academic Affairs to the President of the University. To do so, the complainant
must submit an appeal, along with reasons for doing so and redress desired, in
writing, to the President within ten (10) business days of receipt of the decision
of the Provost and Vice President for Academic Affairs.

b. The President shall consider the appeal based upon the formal record. The
President shall render a decision within thirty (30) business days of receipt of the
appeal request.

4. Appeal to the Board of Regents.

a. Further appeal of the President’s decision shall be in accordance with University
System Policies.

G. Miscellaneous General provisions.

1. Withdrawing Complaints: A complainant may withdraw, in writing, the complaint
prior to the distribution of materials (as outlined in ‘E.1.d.’) to the chair of the
College Faculty Affairs Committee. Upon the agreement of the respondent, the
complainant may withdraw the complaint at any subsequent time.

2. Waiving the Hearing: Upon agreement of the respondent, a complainant may waive
the hearing, requesting that the Hearing panel’s report and recommendations be
reached only on the basis of the formal complaint, the written response and any
documentary evidence submitted by both parties and available to both parties for
examination and rebuttal. Having waived a hearing, the complainant is not entitled to
rescind the waiver.
3. Point of Decision: These procedures presume that the Hearing Panel will make recommendations to the dean of the college. In the event that the primary respondent is the dean of the college, the Hearing Panel recommendations will be made to the Provost and Vice President for Academic Affairs. Any appeals of the decision of the Provost and Vice President for Academic Affairs will be made to the President.

4. Legal Sufficiency: Any agreements reached by the parties shall be reviewed by the university legal counsel for legal sufficiency and compliance with University System and university policy and procedure.

5. Burden of Proof: The complainant has the burden of proving allegations raised in the complaint.

6. Non-retaliation: Any individual exercising her or his rights under this grievance procedure will be treated fairly and the complaint will be given unbiased consideration. Neither individuals using this procedure, nor individuals providing information so that the facts can be determined, will be penalized or harassed for their participation in the grievances process.

7. Time Limits: The University strives to resolve all complaints by the deadlines established in this Policy; however, each situation is unique and circumstances may prevent the meeting of a deadline. If it is not possible for a deadline to be met, the University will minimize the delay and proceed through the process outline in this Policy as close to the deadlines as possible.

8. Confidentiality of Proceedings: The University shall take all reasonable steps to insure the confidentiality of all proceedings, hearings, and records, subject to the Georgia Open Records law.

9. Retention of Hearing Materials: Following a hearing and any appeals which may be filed thereafter the college will retain written documents presented by the complainant, the respondent, or any parties to the appeals, along with the audio tapes of the proceedings of the hearing for four years.