

# Procedures for Amelioration and Reconciliation of a Grievance

## Date

8/19

The University of Southern Indiana seeks to establish a tradition of excellence in all of its academic endeavors. The University community realizes that to attain this standard, its academic personnel must work together in a respectful and collegial manner. To accomplish this, it is essential to maintain an organizational climate which values employees and fosters prompt and fair resolution of their concerns and grievances.

Academic personnel are encouraged to resolve their disagreements through informal, frank, and open discussion. Often conflicts can be lessened, if not resolved, by clearing up misperceptions and misunderstandings. Academic personnel at the University are strongly encouraged to try to take care of their employment related concerns in this manner. However, the University also recognizes that occasionally more formal processes are needed. All such activities, whether informal or formal, must be carried out by all participants within a framework of good faith collegiality. None of these activities shall be judicial in nature, nor may legal counsel participate. University faculty, staff, or graduate students who happen to be attorneys may take part in the following proceedings in their role as University employees, but not as lawyers.

## I. DEFINITIONS

**Faculty:** All members of the instructional staff, the administrative officers holding academic rank, and professional librarians constitute the faculty of the University of Southern Indiana. (Article I, Section 1, of the Constitution of the Faculty)

**Grievance:** A complaint asserting that an action was taken or decision was made in a manner that a University policy, procedure, or standard was misinterpreted or violated. Complaints involving tenure or promotion, non-reappointment, termination of tenured faculty for cause or termination of non-tenured faculty for cause prior to the expiration of their term of appointment normally cannot be the subject of a grievance. However, if a grievance regarding tenure, promotion, non-reappointment, or termination for cause is based on a charge of illegal discrimination or violation of academic freedom, (see Faculty Handbook), the grievance may be considered. In cases where sexual misconduct is alleged, the University's Sexual Misconduct & Relationship Violence Policy, Equal Opportunity & Non-Discrimination Policy, and related procedures for complaint reporting shall take precedence over the procedures outlined in this policy.

**Initiator:** A person who seeks to resolve a complaint through the University grievance process.

**Respondent:** The University employee(s) who made the decision or took the action on behalf of the University that precipitated the complaint.

**Advisor:** An academic colleague invited to accompany an initiator or respondent to a hearing to provide advice and support or to observe the proceedings.

**Witness:** A person with knowledge of the alleged action or decision being grieved who attests to or furnishes evidence about what did or did not occur.

**Participants:** Individuals formally stipulated in the policy as initiator, respondent, Grievance and Hearing Committee members, provost and vice president for Academic Affairs or designee, and Faculty Senate Chair.

**Days:** All days stated are noted as calendar or working days.

## II. COMMITTEE MEMBERSHIP

The membership of the Grievance and Hearing Committee is defined in Article V, Section 7 of the By-Laws of the Faculty Constitution in the Faculty Handbook.

Members should anticipate that a formal hearing could extend into summer session.

### III. INFORMAL AND FORMAL PROCEEDINGS

It is the goal of the Faculty Grievance and Hearing Policy to provide an expeditious process to allow for the resolution of grievances. It is in the best interest of the University and the faculty member involved to resolve a complaint as soon as possible at the level closest to the faculty member and his/her supervisor.

Formal departmental or college procedures, where they exist, must be followed before the University grievance procedure can be initiated; where they exist, the requirement to follow the informal proceeding procedures outlined in this policy may be waived. All written communications in the course of informal or formal grievance proceedings must be in hard copy and not by electronic mail and all parties should send formal notification indicating they have received these communications.

#### **Stage One: Informal Proceedings**

The procedures for resolving a grievance informally must include the following:

1. The initiator must begin informal resolution within 30 calendar days of the time he/she first became aware or reasonably should have become aware of the alleged violation or within 30 calendar days of his/her knowledge of the most recent incident in a series of related actions or decisions comprising the complaint.
2. To begin the informal process, the initiator must state his/her concerns in writing to his/her department chair and dean of the college. The letter must include a description of the alleged impropriety, including the date it occurred and/or the date the initiator became aware of the occurrence; the University policy, procedure or standard misinterpreted or violated; the name(s) of the person(s), if known, responsible for the alleged impropriety; and the remedy sought. To ensure a timely response to the initiator's concerns, the letter must be delivered in person to the department chair or sent by certified mail.
3. The department chair must resolve the alleged impropriety to the satisfaction of the initiator within 10 working days after receiving the complaint or reject the merits of the complaint. If the grievance is not disposed of at the initial conference with the department chair, the faculty member may request a conference with the dean of his/her college by filing a written request for such conference within 10 working days after the initial conference has been held with the department chair. The dean shall meet with the initiator within 10 working days after receipt of such notice. Upon request of the dean, the department chair shall file with the dean a written report of the chair's meeting with the initiator, including any written communication concerning the grievance and the reason for any action or lack of action taken. The dean shall retain all written documents of the grievance. Any audio recordings of conferences with the initiator during the informal process should be made only with the agreement of all parties. Copies of the recordings should be included with the written documents of the informal process.
4. In the event the grievance is not settled at the conference with the dean, the faculty member may request the provost to review the grievance by filing a written request within 10 working days after the action taken by the dean. The provost shall meet with the initiator within 10 working days after the receipt of such a request. Upon notification by the provost, the dean shall file with the provost a report of his/her conference with the initiator including any written and recorded communications concerning the grievance and the action taken by the dean. The provost will communicate in writing to the initiator a formal report of his/her decision in this case.
5. If the initiator remains dissatisfied following the conference with the provost, the faculty member may request a formal hearing of the grievance before his/her peers within 30 calendar days of the action taken by the vice president.
6. Any extension of the time periods for action must be mutually agreed upon by the parties involved. In the absence of a timely response by either party, the Grievance and Hearing Committee will consider whether to dismiss or deliberate further the grievance.

#### **Stage Two: Formal Proceedings**

Before requesting a formal hearing, an initiator must try to resolve the complaint through the informal process outlined in Stage One.

1. To begin formal proceedings, the initiator must notify in writing the provost and the Faculty Senate Chair of his/her intentions no later than 10 working days from the date of notification of the outcome of the informal proceedings. The written notification must be delivered in person or via certified mail.
2. The initiator's notification must be in writing (note the prohibition against using electronic mail above) and include a statement of the alleged impropriety that was not resolved informally; no new concerns or complaints may be added. The statement also must include a description of the facts giving rise to the complaint and the relief sought. These materials must be accompanied by copies of all correspondence concerning the complaint that the initiator sent or received during the informal proceedings.
3. If the provost is a party to the original complaint, the initiator should send notice requesting a formal hearing to the President for the University who shall designate another University employee to perform the role assigned to the provost.
4. The provost/designee shall forward a copy of all materials received from the initiator, to the respondent(s) whose alleged actions or decisions are the basis for the complaint. The respondent(s) must furnish a written response within 10 working days. Upon receipt of the respondent(s) statement(s), the provost/designee shall forward the materials received from the initiator, and the respondent(s) to the Chair of the Faculty Senate.
5. The Chair of the Faculty Senate shall convene the Grievance and Hearing Committee to hear the grievance within 10 working days after the provost has received the initiators' notification of a formal grievance. At the first meeting, the Chair of the Faculty Senate will review with the Committee the relevant procedures and policies for consideration of a grievance. At any time before the hearing, the initiator may withdraw the grievance by written notice to the Chair of the Faculty Senate and the provost. Once the hearing begins, however, the grievance may be withdrawn only under the following conditions: (a) the initiator decides that the grievance process is no longer necessary in this instance, or (b) the respondent agrees to provide relief acceptable to the initiator, or (c) both parties request the grievance be withdrawn. The Grievance and Hearing Committee may decide not to conduct a hearing on charges that it deems are outside of its authority or that lack merit.
6. A formal hearing shall begin no later than 10 working days after the Grievance and Hearing Committee is constituted. The order in which the various elements of the hearing described below occur shall be determined by the committee. The Grievance and Hearing Committee also may set reasonable time limits in which these elements must be completed. Information concerning the order of hearing and the time limits, if the committee chooses to set them, should be sent to both the initiator and the respondent at least 10 days prior to the hearing.
  - a. The hearing shall be open only to the participants.
  - b. The initiator and the respondent(s) each may invite up to two faculty or staff to serve in an advisory capacity. Advisors can be present throughout the hearing to provide support and advice to their advisee and/or to observe the proceedings. Advisors may not provide testimony, make statements, or otherwise participate in the hearing. An advisor may not also be a witness, nor may a witness be an advisor.
  - c. Both the initiator and the respondent(s) may present oral and written statements, question each other, introduce witnesses, and question all witnesses.
  - d. Each witness may be present at the hearing only when he/she is making a statement or being questioned.
  - e. The committee may question all participants speaking at the hearing as well as ask for additional information. The committee also may call and question witnesses. In addition, the committee may stop the presentation of information it deems irrelevant to the allegations.
  - f. No new allegations may be introduced into the hearing.
  - g. All committee members, participants, and advisors must respect the confidentiality of the information and records introduced into the hearing.
  - h. A single audio recording shall be made of the hearing and kept in the Office of the Provost for use by the committee, the initiator and the respondent, should any of these parties want to review the proceedings. A written transcript will not be provided.

- i. The panel's decision must be based solely on information that has been made available to both the initiator and the respondent(s). If additional information is received by the committee outside the hearing, it must be shared with all parties to the grievance, and each must be given an opportunity to respond. If the response is verbal, it must be made in the presence of the committee panel and all parties (any parties, however, may waive the opportunity to be present) or the committee panel must prepare a written summary of the information gained and share it with all parties for review and comment.
- j. The committee shall conduct the hearing as expeditiously as possible. After the proceedings have concluded, the panel shall meet in executive session and determine by majority vote whether or not the preponderance of the evidence presented supports the allegations made by the initiator.
- k. The findings of the Grievance and Hearing Committee concerning the outcome of the grievance and recommended actions shall be transmitted by the Chair of the Grievance and Hearing Committee in writing to the President, with informational copies to the Faculty Senate Chair, the initiator, the respondent(s), the provost/designee and the college dean within 14 working days of the Grievance and Hearing Committee's determination of findings. The President may accept the recommendation of the Grievance and Hearing Committee or dismiss the complaint for lack of merit.

#### IV. OTHER PROVISIONS

The procedures outlined above shall pertain to grievances initiated on or after July 1, 2008.

- A. Academic personnel employed by other than a college who have grievances that qualify for formal consideration shall have their concerns heard by their immediate supervisor, or if the supervisor is a respondent in the grievance, by the provost.
- B. No one shall threaten, attempt to retaliate or retaliate against a person filing a grievance or participating in the investigation of the grievance. All persons involved in the grievance are warned against retaliation. Such behavior will not be tolerated and will subject to discipline the individual retaliating against a person or persons.