

Policy Title:	Faculty Grievance Procedures
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Related Policy:			

Revision History

Revision Number:	Change:	Date:
	Initial version	January 1994
1	Revision	August 2016

A. Policy Statement

<p><b><u>I. Faculty Grievance Procedures</u></b></p> <p><b>A. Division 5, 573-005-0005 General Provisions</b></p> <p>According to SOU’s Policy on Conditions of Service, AAD.047 (580-021), "grievance" means a complaint by an academic employee that the employee was wronged in connection with compensation, tenure, promotion or other conditions of employment, or the employee's rights were denied as to reappointment.</p> <p>1. "Other conditions of employment" shall include, but are not necessarily limited to, violations of academic freedom, discriminatory employment practices, and laws, rules, policies, and procedures under which the institution operates.</p> <p>2. Procedures for hearing cases which may lead to termination or other sanctions for cause and review of sanctions are summarized in the Faculty Constitution and Bylaws and are found in SOU’s Policy on Conditions of Service, AAD.047 (580-021) in the section on Termination and Other Sanctions for Cause.</p> <p>3. A personal complaint by a faculty member against another faculty or staff member which does not allege a wronging of the complainant through a personnel action is not subject to the procedures set out in this section. Refer to the Faculty Constitution and Bylaws.</p>
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4. The procedures set out in this section are available to any faculty member as defined within the Faculty Constitution and Bylaws.

5. The faculty member may not proceed with a grievance under this section if the grievant is seeking resolution of that same grievance in another forum.

#### **B. Division 5, 573-005-0015 Definitions**

1. "Days" shall mean calendar days unless otherwise specified.

2. "Hearing Committee" shall mean a Faculty Senate Hearing Committee as provided in the Faculty Constitution and Bylaws.

3. "Formal Grievance" shall mean a written statement including the information outlined below; the procedures of this section may not be invoked unless the grievance is presented in writing. These procedures are not intended to be used in the hearing of charges which may lead to disciplinary sanctions. Those procedures are outlined in the Faculty Constitution and Bylaws and also SOU's Policy on Conditions of Service, AAD.047 (580-021), paragraph IV F.

#### **C. Division 5, 573-005-0025 Informal Procedures**

1. Prior to filing a formal grievance, a faculty member is encouraged to seek mediation of the grievance with the faculty member's division director, Vice President for Academic and Student Affairs and Provost, or, in the case of discrimination, including sexual harassment, the appropriate administrative officer. The faculty member must have the initial discussion within ten days of receiving notice of a personnel action. If the administrator agrees to seek resolution, the administrator must provide the faculty member with a written report on the results of the mediation not more than 15 days after the initial discussion with the grievant unless the administrator and the grievant agree in writing to extend the time limit. In no case may the time limit be extended to more than 30 days after the initial discussion with the grievant.

2. The appropriate administrative officer must be notified of any grievance alleging discrimination, including sexual harassment. That officer will identify the specific allegations, investigate each allegation of discrimination, and attempt to help the parties resolve the issue.

#### **D. Division 5, 573-005-0035 Initiation of Formal Procedure**

1. If a grievance is not resolved to the satisfaction of the grievant at the informal stage or if the grievant chooses to bypass the informal stage, the grievant may initiate the formal grievance by filing a formal grievance in writing with the chair of the Faculty Senate, who shall immediately notify the parties involved in the grievance. If the grievant does not want the grievance heard by a Faculty Senate Hearing Committee, the grievant may file the grievance directly with the President, accompanied by a letter indicating that the grievant waives the right to a hearing before a Faculty Senate Hearing Committee. The grievance will then be heard by the President or a designee within 15 days of the grievance being filed with the President. The

President will render a written decision within 30 days of the conclusion of the hearing following the provisions of paragraph I F(3) below.

2. The formal grievance must be filed within ten days of the faculty member receiving notice of a personnel action. If the faculty member has sought informal resolution of the grievance within ten days of receiving notice of a personnel action, the formal grievance must be filed within ten days of receiving the written report from the administrator detailing the results of the mediation efforts.

3. The formal grievance must be addressed to the chair of the Faculty Senate and must contain the grievant's name, address and telephone number; the date and nature of the personnel action being appealed; the parties responsible for the personnel action; and the remedy requested.

4. Once a formal grievance has been filed with the chair of the Faculty Senate, it may be withdrawn only with the written consent of the grievant and the parties named within the grievance.

5. The chair of the Faculty Senate shall cause a Faculty Senate Hearing Committee to be formed and the Hearing Committee shall meet within 15 days of the receipt of the grievance by the chair of the Faculty Senate.

#### **E. Division 5, 573-005-0045 Hearing Committee Procedures**

1. The Hearing Committee shall send to all parties a written notice of the time and place of the hearing at least seven days prior to the hearing.

2. The grievant shall have the option to be present throughout the hearing. The grievant shall present the grievance first, followed by responses from the person or persons who are the object of the grievance. Thereafter the grievant shall have an opportunity to respond and the Hearing Committee shall have the opportunity to question any party to the grievance.

3. Each party shall have a right to call and examine witnesses and to introduce exhibits or other documents. The members of the Committee may question any witness and may call additional witnesses.

4. Where the personnel action was based upon materials assembled as specified within the policies and procedures of the university, the Hearing Committee shall base their action upon those materials. Exception shall be made when the grievant argues that the materials:

- (a) Were assembled in a manner contrary to university policy and procedures;
- (b) Included or excluded materials contrary to university policy and procedures; and/or
- (c) Were otherwise flawed due to a violation of university policy and procedures.

5. The grievant may be accompanied by or represented at the hearing by another person of the grievant's choosing. The grievant will be responsible for any costs of representation except as allowed in applicable laws.

6. The chair of the Hearing Committee shall provide for a sound recording of the hearing which shall be filed with the Vice President for Academic and Student Affairs and Provost. The Vice President for

Academic and Student Affairs and Provost will make such recordings available to parties of the grievance upon request.

7. The hearing shall be open to the public at the option of the grievant to the extent allowed by law. However, deliberations of the Hearing Committee shall not be open to the public or the parties involved.

#### **F. Division 5, 573-005-0055 Decision of the Hearing Committee**

1. The Hearing Committee will render its decision in the form of a written recommendation to the President and will forward it to the chair of the Faculty Senate. The recommendation shall be based solely upon the evidence presented at the hearing.

2. The chair of the Faculty Senate will forward the recommendation without comment to both the President and the grievant and will notify the Faculty Senate that the Hearing Committee has completed its work. The recommendation shall be forwarded to the President within 60 days of the receipt of the formal grievance by the chair of the Faculty Senate.

3. The President shall review the recommendation and render a written decision within 30 days notifying the grievant and the chair of the Faculty Senate of the decision. The President may interview any person concerning the grievance to supplement the record of the hearing, provided that the decision lists each person so interviewed and includes a written synopsis of the contents of each interview. In addition, the President may review any documents, provided that the decision shall identify any such documents that were not a part of the record of the hearing. The grievant shall be informed of such additional information obtained by the President in preparing the decision and shall be given seven days to provide any comment or response prior to the President rendering a decision. If the President rejects or modifies the recommendations of the Hearing Committee, the reasons shall be stated in the decision.

#### **G. Division 5, 573-005-0065 Protection from Retaliation**

A faculty member filing a grievance in good faith or otherwise participating in any of the actions authorized under these grievance rules shall not be subject to retaliatory action of any kind by any employee of the university.

#### **H. Division 5, 573-005-0075 Unmet Deadlines**

Should the Faculty Senate not meet the deadlines provided in this section, the grievant may file the grievance directly with the President. Should the President not meet the deadlines provided herein, the grievant may file the grievance with the Chair of the SOU Board of Trustees.

## **II. Procedure for Hearing a Charge Which May Lead to Termination or Other Sanction of a Faculty Member for Cause**

### **A. Division 5, 573-005-0085 Procedures for Hearing Charges**

Procedures for hearing charges which may lead to termination or other sanction of a faculty member for cause are outlined in SOU's Policy on Conditions of Service, AAD.047 (580-021). These procedures are to be used whenever "there is probable cause to impose a sanction or sanctions more severe than an oral or written warning or reprimand" (SOU's Policy on Conditions of Service, AAD.047 (580-021), paragraph IV H).

### **B. Division 5, 573-005-0095 Definition of Cause**

"Cause" includes conviction of a felony or a crime of moral turpitude during the period of employment by the division, committing an act of proscribed conduct as defined in SOU's Policy on Academic Freedom, AAD.044(580-022), paragraph III A, failure to perform responsibilities, evidence of incompetence, gross inefficiency, default of academic integrity in teaching, research, or scholarship, intentional or habitual neglect of duty, and failure to perform adequately for medical reasons.

### **C. Division 5, 573-005-0105 Attempts at Resolution**

Procedures for formal proceedings are only to be invoked after the President has been unable to make a satisfactory resolution of the matter through informal means.

### **D. Division 5, 573-005-0115 Initiation of Formal Proceedings**

The President is to initiate formal proceedings by the preparation of formal charges against the faculty member as described in SOU's Policy on Conditions of Service, AAD.047 (580-021), paragraph IV H. The following are provided for in that policy:

1. Rules for the temporary suspension of a faculty member (paragraph IV I).
2. Faculty member's request for a formal hearing on charges (paragraph IV J).
3. Constitution and formation of the Hearing Committee (paragraph IV K).
4. Conduct of the hearing (paragraph IV L).
5. Report by the Committee (paragraph IV M).
6. Action by the President (paragraph IV N).
7. Date of termination (paragraph IV O).

8. Procedure to obtain review by the Board (paragraph IV P).
9. Effect on personnel record of investigations which do not result in formal charges or which have not resulted in oral or written warning or reprimand (paragraph IV S).
10. Subpoenas (paragraph IV V).
11. Powers of hearing officers (paragraph IV Y).
12. Who may appear (paragraph IV Z).
13. Evidence (paragraph IV EE).

### **III. Faculty Complaints Against Other Faculty, Administrators or Staff**

#### **A. Division 5, 573-005-0125 General Provisions**

These procedures are to be used whenever a faculty member has a complaint against another faculty member, administrator or staff person which is not covered in any other section of the Faculty Constitution and Bylaws.

#### **B. Division 5, 573-005-0135 Informal Procedures**

1. Parties to a disagreement must first seek mediation of the disagreement with the supervisor or supervisors of the parties involved. The supervisor(s) must provide both parties to the complaint with a written report on the results of the mediation not more than 15 days after the initial discussion with the complainant unless the administrator or either party to the complaint requests in writing to extend the time limit. In no case may the time limit be extended to more than 30 days after the initial discussion with the complainant.
2. Should the complaint not be resolved to the satisfaction of any party to the complaint at this level, then the complaint may be taken to the next-higher administrative level for rehearing. This process may continue up through the President, except in situations when the complaint is against the President, in which case the complaint shall be filed with the Chair of the SOU Board of Trustees.
3. All complaints alleging unlawful discrimination, including sexual harassment, must be filed with the appropriate administrative officer. That officer will identify the specific allegations, investigate each allegation of discrimination, and attempt to help the parties resolve the issue.

#### **C. Division 5, 573-005-0145 Initiation of Formal Procedures**

1. If a complaint is not resolved to the satisfaction of the complainant at the informal stage, the complainant may initiate the formal complaint by filing it in writing with the Vice President for Academic and Student Affairs and Provost, who shall immediately notify the parties involved in the complaint. The complaint shall then be heard by a Complaint Hearing Panel empowered by the Vice President for Academic and

Student Affairs and Provost within 15 days of the filing of the complaint. The Complaint Hearing Panel shall render a written decision within 30 days of the conclusion of the hearing:

- (a) Complaints against the Vice President for Academic and Student Affairs and Provost shall be filed with the President and shall follow the same procedures outlined below, substituting President for Vice President for Academic and Student Affairs and Provost;
- (b) Complaints against the President shall be filed with the Chair of the SOU Board of Trustees and shall follow the same procedures outlined below, substituting Chair for Vice President for Academic and Student Affairs and Provost.

2. The formal complaint must be addressed to the Vice President for Academic and Student Affairs and Provost and contain the complainant's name, address and telephone number; the date and nature of the complaint; the parties involved; and the action requested.

3. Once a formal complaint has been filed with the Vice President for Academic and Student Affairs and Provost, it may be withdrawn only with the written consent of the complainant and the parties named within the complaint.

#### **D. Division 5, 573-005-0155 Composition of Complaint Hearing Panels**

1. The Vice President for Academic and Student Affairs and Provost shall appoint a Complaint Hearing Panel to hear the complaint.
2. Complaint Hearing Panels to hear faculty-faculty and faculty-administrator complaints shall be composed as follows: Three faculty members, at least one from the home division of the complainant, and two administrators, at least one from the division of the complainant.
3. Complaint Hearing Panels to hear faculty-staff complaints shall include two faculty members (at least one from the division of the faculty member), one administrator, and two staff members (one from the division of the faculty member and one from the division of the staff person).
4. Each disputant shall have the right to challenge an unlimited number of Committee members for cause. Any challenge for cause shall be referred to the Vice President for Academic and Student Affairs and Provost or his/her designee for disposition.

#### **E. Division 5, 573-005-0165 Hearing Procedures**

1. The Complaint Hearing Panel shall send to all parties a written notice of the time and place of the hearing at least seven days prior to the hearing.
2. The complainant shall have the option to be present throughout the hearing.
3. The complainant shall present the complaint first, followed by responses from the person or persons who are the object of the complaint. Both parties shall have full rights of rebuttal. The Complaint Hearing Panel shall have the opportunity to question any party to the complaint.

4. Each party shall have the right to call and examine witnesses and to introduce exhibits or other documents. The members of the Panel may question any witness and may call additional witnesses.

5. The complainant may be accompanied by or represented at the hearing by another person of the complainant's choosing. The cost of legal counsel shall be borne by those individuals soliciting such help, except as provided for in ORS 30.285 and other applicable laws.

6. The chair of the Complaint Hearing Panel shall provide for a sound recording of the hearing which shall be filed with the Vice President for Academic and Student Affairs and Provost. The Vice President for Academic and Student Affairs and Provost shall make such recordings available to all parties of the complaint upon request.

7. The hearing shall be open to the public at the option of the complainant to the extent allowed by law. However, deliberations of the Complaint Hearing Panel shall not be open to the public or parties involved.

#### **F. Division 5, 573-005-0175 Decision of the Hearing Panel**

1. The Complaint Hearing Panel shall render its decision in the form of a written recommendation to the Vice President for Academic and Student Affairs and Provost within 60 days of the empowerment of the Panel. The recommendation shall be based solely upon the evidence presented at the hearing. The Complaint Hearing Panel shall also forward a copy of its decision to each party of the complaint.

2. The Vice President for Academic and Student Affairs and Provost shall review the recommendation and render a written decision within 30 days. Each party to the complaint shall be provided a written copy of the decision. Before rendering a decision, the Vice President for Academic and Student Affairs and Provost may interview any person concerning the complaint in order to supplement the record of the hearing, provided that the decision lists each person so interviewed and includes a written synopsis of the contents of each interview. In addition, the Vice President for Academic and Student Affairs and Provost may review pertinent documents, provided that the decision shall identify any such documents that were not a part of the record of the hearing. The complainant shall be informed of such additional information obtained by the Vice President for Academic and Student Affairs and Provost in preparing the decision and shall be given seven days to provide any comment or response prior to the Vice President for Academic and Student Affairs and Provost rendering a decision. If the Vice President for Academic and Student Affairs and Provost rejects or modifies the recommendation of the Complaint Hearing Panel, the reasons shall be stated in the decision.

#### **G. Division 5, 573-005-0185 Protection from Retaliation**

A faculty member filing a complaint in good faith or otherwise participating in any of the actions authorized under these complaint rules shall not be subject to retaliatory action of any kind by any employee of the university.



## **H. Division 5, 573-005-0195 Unmet Deadlines**

Should the Vice President for Academic and Student Affairs and Provost not meet the deadlines provided in this section, the complainant may file the complaint directly with the President. Should the President not meet the deadlines provided herein, the complainant may file the complaint with the Chair of the SOU Board of Trustees.

## **I. Division 5, 573-005-0205 Review of Decision**

1. Should any member to the complaint disagree with the decision of the Vice President for Academic and Student Affairs and Provost, he/she may request the chair of the Faculty Senate to convene a Faculty Senate Hearing Committee. The purpose of the Hearing Committee is not to rehear the entire case, but to examine the materials presented and the procedures followed in arriving at the decision. Possible reasons for recommending a reversal of a decision would be overlooked evidence, misplaced emphasis on evidence, and bias in the procedures for evidence collection or conducting the hearing.

2. The request for a Faculty Senate hearing must include a copy of the decision and the basis for requesting the review.

3. Procedure for formal review by Faculty Senate Hearing Committee:

- (a) At least seven days prior to the review, the Hearing Committee shall notify all parties in writing of the time and place of the review;
- (b) The faculty member shall have the option to be present throughout the review;
- (c) The faculty member shall present evidence and call witnesses first, followed by the Vice President for Academic and Student Affairs and Provost. Thereafter, both parties shall have the opportunity for rebuttal;
- (d) The review shall, at the option of the faculty member and to the extent allowed by law, be open to the public. However, deliberations of the Hearing Committee shall not be open to the public or the parties involved;
- (e) The Hearing Committee will render a written recommendation to the President, forwarding it through the chair of the Faculty Senate. The recommendation shall be based solely upon the evidence presented at the review;
- (f) The chair of the Faculty Senate will forward the recommendation without comment to both the President and the faculty member, and will notify the Faculty Senate that the Hearing Committee has completed its work. The recommendation shall be forwarded to the President within 60 days of the receipt of the formal request for review by the chair of the Faculty Senate;
- (g) The President shall review the recommendation and render a written decision within 30 days, notifying the faculty member and the chair of the Faculty Senate of the decision. The President may interview any person concerning the review to supplement the record of the review, provided that the decision lists each person so interviewed. In addition, the President may review any pertinent documents, so long as such documents are identified in the President's written decision. The faculty member shall be informed of such additional information obtained by the President in preparing the decision and shall be given seven days to provide any comment or response prior to the President rendering a decision. If the President rejects or modifies the recommendations of the Hearing Committee, the reasons shall be stated in the decision.

#### **IV. Imposition and Review of Disciplinary Sanctions**

##### **Division 5, 573-005-0215 Removal of Administrative Personnel from Office**

If it should appear that an administrative officer does not have the support and confidence of those within the administrative unit to such an extent that its operation is jeopardized, a formal written request for the removal of the officer may be submitted to the Faculty Senate by two-thirds of the members of the unit involved. The request will be considered by the Senate and sent with the Senate's recommendation to the proper authority.

[Publications: The publication(s) referred to or incorporated by reference in this policy are available from the Provost's Office.]

This policy may be revised at any time without notice. All revisions supersede prior policy and are effective immediately upon approval.

##### **B. Policy Consultation**

This policy was in effect and applied to SOU by operation of law through Oregon Administrative Rule 573, Division 5.

##### **C. Other Information**

The Policy Contact, defined above, will write and maintain the procedures related to this policy and these procedures will be made available within the Custodial Office.