

APPENDIX

PROCEDURAL GUIDELINES FOR THE FACULTY GRIEVANCE COMMITTEE

Summary

This document presents guidelines for the interpretation and application of the HSC Rule 31.01.01.Z1 Complaint and Appeal Procedures for Faculty.

When an HSC faculty member has exhausted all component-level grievance procedures and requests further consideration from the HSC administration in accord with System Policy 32.01.01 and HSC supplemental Rule 32.01.01.Z1, the HSC Faculty Grievance Committee (FGC) will review the grievant's complaint.

1. FORMATION OF THE FACULTY GRIEVANCE COMMITTEE

The FGC shall be comprised of faculty members and serve for both the CAFERRT and FGC members. Alternates may be appointed representing a component if one or more of that component's CAFERRT members are unable to serve on the FGC. Members shall serve three-year terms arranged on a rotating basis so that approximately one-third of the members are replaced each year. The committee shall be elected during the fall semester by the faculty at-large from a slate of nominees comprised of three faculty members selected by the Faculty Senate caucus in each component that meet the CAFERRT membership requirements in each Faculty Senate electoral unit, excepting the School of Graduate Studies. Each member of the faculty may vote for no more than the number of seats to be filled. Individuals receiving the most votes will normally become members of the committee; however, to avoid having more than four members of the committee from the same Faculty Senate electoral unit, those receiving fewer votes shall be selected. Terms of new CAFERRT and FGC members begin January 1 each year.

The FGC will elect from its membership a chair and vice chair in January of each year.

2. PROCEDURAL GUIDELINES FOR THE PRELIMINARY REVIEW COMMITTEE

2.1 Preliminary Review Committee

An FGC preliminary hearing subcommittee will conduct a preliminary investigation of the grievance and submit their recommendations to the FGC concerning whether a more detailed investigation is justified. If the FGC determines that a detailed investigation is justified, the complainant will be provided an opportunity to present his or her case to an FGC hearing subcommittee.

2.2 Preliminary Review Committee Composition

The Preliminary Review Committee shall be comprised of the Chair, Vice Chair, and three to five FGC members. The FGC members will be chosen on a rotating basis.

Challenge to Committee Makeup

Each Preliminary Review Committee hearing member is subject to challenge for cause. The FGC chair will rule on the validity of any challenge. Should the challenge be directed toward the FGC chair, then the vice-chair shall rule on the validity of the challenge. Should both the chair and vice-chair be successfully challenged, then the Speaker of the Senate or their designee shall rule on the validity of the challenge and if required may form a new committee. (Note: Such challenges relate to the ability of a member to render an unbiased decision.) The mere existence of friendships or other contacts between a committee member and other individuals does not necessarily constitute bias. In the event that the relationship may give the perception of bias, the committee member(s) will be allowed to recuse themselves.

2.3 Preliminary Review Committee Procedures

The Preliminary Review Committee shall convene a meeting with the grievant within ten days of receipt of the faculty member's appeal. The committee will establish a time limit for the meeting on a particular case (e.g., two hours) and may extend the time limit by majority vote of the committee during the meeting. During the meeting, the faculty member will present his/her allegations and supporting statements that a violation as described in System Policy 32.01.01 has occurred. The faculty member may have legal counsel and/or other advisors present..

The meeting shall be closed unless the affected faculty member requests that it be open. The Preliminary Review Committee shall be self-governing and, within the provisions of this HSC statement, shall adopt such rules and procedures, as it deems appropriate.

The findings (see supplement to System Policy 32.01.01, 32.01.01.Z1) of the Preliminary Review Committee shall be forwarded to the FGC, the President, and the affected faculty member within ten business days of the meeting.

3. PROCEDURAL GUIDELINES FOR A FACULTY GRIEVANCE HEARING

When the FGC Preliminary Review Committee supports a faculty member's request for a hearing (in accord with System Policy 32.01.01) the time frame of the HSC Grievance Committee (FGC) hearing shall be in accord with System Policy 32.01.01 and HSC supplemental Policy 32.01.01.Z1.

3.1 HSC Grievance Subcommittee Composition

The HSC FGC Grievance Subcommittee will consist of no less than five voting FGC members who are assigned by the chair or the vice chair of the FGC (the chair and vice chair are non-voting members). It is preferable to start with seven voting members. An effort will be made to distribute participation on FGC Hearing Subcommittees when multiple cases are heard during an academic year. The following criteria are grounds for recusal or exclusion from serving on a FGC Hearing Subcommittee. The following

criteria may be considered for recusal or exclusion and a decision will be made by the chair:

- None of the subcommittee members will be from the grievant's or defendant's component.
- The FGC member is a spouse, significant other or otherwise related to the grievant or the defendant.
- The FGC member has present or past financial interactions with the grievant or the defendant.
- The FGC member and the grievant or the defendant have or had a recent collaborative relationship.
- Additionally, each FGC member is subject to challenge for cause. The subcommittee chair will rule on the validity of any challenge. Should the challenge be directed toward the FGC chair then the vice chair shall rule on the validity of the challenge. Should both the chair and vice chair be successfully challenged then the Speaker of the Senate or their designee shall rule on the validity of the challenge. (Note: Such challenges relate to the ability of a member to render an unbiased decision. The mere existence of friendships or other contacts between a committee member and other individuals does not necessarily constitute bias.)

3.2 Hearing Procedures

- Both parties have the right to hear the other's testimony and the testimony of any witnesses.
- Both the grievant and defendant(s) shall have the right to be represented by legal counsel. Legal counsel shall be limited to the role of providing advice solely to either grievant or defendant(s) and will not be allowed to present evidence, cross examine witnesses, or make arguments to the FGC.
- Outside the hearing, either party may use legal counsel to assist in preparation of the record. If either party is to be represented by legal counsel at the hearing, that party shall provide reasonable notice of at least three days to the other party and to the FGC prior to the hearing so that the other party may arrange to be represented by counsel at the hearing.
- Both the defendant(s) and the grievant shall have the right to call witnesses and to have an electronic recording of the proceedings. At least three three working days before the hearing, each party shall notify the other and the panel of the identity of witnesses and subjects to be addressed by each witness in writing.

- Separate legal counsel may represent individual witnesses. Unless special circumstances warrant, it should not be necessary to follow State of Texas or Federal formal rules of court or civil procedure.
- As a reaffirmation of System Policy 32.01.01, and HSC Policy supplement 32.01.01.Z1, the FGC committee developed a statement that addresses the prohibition of any retaliatory acts. All parties presenting testimony at the hearing will be required to sign this statement acknowledging the policy and the consequences for any retaliation.
- The FGC shall allow oral arguments and written briefs by the grievant and by the defendant(s).
- Only members of the FGC subcommittee may question the parties or witnesses.

The FGC shall be self-governing and within the provisions of this HSC statement, shall adopt such rules and procedures, as it deems appropriate, including rules regarding admissibility of evidence.

3.3 Findings and Recommendations

The subcommittee will hear the grievant and defendant's testimony and report to the full committee of the FGC for deliberations. The full committee of the FGC will make a decision on whether the facts of the case have merit or no merit. If the FGC finds merit, recommendations for remedies or sanctions will be submitted to the Vice President for Academic Affairs acting on behalf of the HSC President.