

## Chapter 6 Faculty Grievance Process

### 6.0 FACULTY GRIEVANCE PROCESS

When misapplication of or failure to apply appropriate written and approved policies and procedures results in actions or decisions that adversely affect their employment, USC Upstate faculty members have the right to grieve these decisions.

The grievance process for faculty affairs is reserved for instances in which all other appropriate avenues of appeal or arbitration have been exhausted. The outcome of the process is limited to recommending appropriate action to the chancellor.

USC Upstate faculty members have the right to grieve decisions affecting their employment when those charged to implement policies and procedures fail to follow them.

Such circumstances may include, but are not limited, to

- inadequate or improper documentation
- use of impermissible criteria
- denial of academic freedom
- denial of procedural due process
- Non-reappointment of instructor and clinical track faculty before the end of a contract. (amended 3/15/2024)

The grievance procedure may not be used for:

1. A complaint, the resolution or remedy of which would conflict with a policy approved by the Board of Trustees of the University, federal, state, or local law or regulation, or any contract to which the University is party.
2. A complaint pertaining to an issue within the purview of any other standing committee or policy of the University or School (for example, Promotion and Tenure decisions), unless the complaint arises from a committee's alleged failure to act or to follow the policies or procedures of the University.

Matters for which the grievance procedure may not be used can be addressed through other university policies and procedures.

In circumstances where faculty members believe they have experienced unlawful discrimination or violations of USC Upstate's discrimination and harassment policies. They should consult CR 1.00 "Policy Against Discrimination, Harassment & Sexual Misconduct" or CR 2.00 "Equal Opportunity and Affirmative Action" as appropriate.

In circumstances where there is a civility issue, the involved faculty should consult and follow USC Upstate's Civility Policy.

In circumstances where performance evaluations have been rendered that lack adequate or use improper documentation, or use of impermissible criteria, faculty should refer to the Chapter V (Faculty Review), Appendix V – Guidelines for File Preparation for Promotion & Tenure, Appendix VI – File Review for Promotion and Tenure, Appendix VII – Guidelines for File Preparation for Other Reviews, or Appendix VIII – Unit Criteria and Review Forms as appropriate.

Such grievances may require appeal through the administrative chain of command or involve either

the Promotion and Tenure Committee or the Faculty Welfare Committee depending on the issue.

## 6.1 GENERAL

Prior to initiating the formal grievance process, faculty members are encouraged to attempt to resolve the matter informally. These informal measures may include bringing the complaint or dispute to the individual(s) with whom there is a grievance in an attempt to resolve the problem through informal discussion, consulting with unit administrators, and/or seeking resolution through the provost.

If the grievance remains unresolved, the faculty member may begin the grievance process by submitting a written statement of the issue(s) to the chair of the Faculty Welfare Committee. The outcome of the grievance process is limited to recommending remedial action to the chancellor.

## 6.2 DEFINITIONS

A GRIEVANCE is a complaint by a faculty member that his or her professional activities have been adversely affected by actions that violate university policy or procedure.

A FACULTY MEMBER means any person currently holding a full-time appointment to the faculty of the University.

A GRIEVANT is a faculty member who brings a grievance as outlined in these procedures.

A RESPONDENT is the faculty member(s) or academic administrator(s) alleged to have violated a policy or procedure.

## 6.3 PROCEDURES

When a faculty member believes they have a grievable circumstance(s), it is appropriate to seek the counsel of a trusted colleague, the chair of the Faculty Welfare Committee or the Faculty Chair, or the Faculty Ombuds before taking further action.

### 6.3a Informal Resolution

If the faculty member believes that the issues can be resolved through informal means, such means should be pursued first. If informal effort fails to resolve the issue(s), a formal grievance procedure may be initiated.

### 6.3b Formal Resolution

Formal grievances must be initiated in writing to the chair of the Faculty Welfare Committee. The written statement should be signed and dated and must include (i) a factual description of the complaint or dispute resulting in the grievance; (ii) the name of the person(s) against whom the grievance is initiated. The applicable formal process depends upon the nature of the grievance.

### 6.3c Procedure for Denial of Academic Freedom

In circumstances where a faculty member believes their academic freedom has been infringed, the faculty member should begin with a written request, setting forth in a clear and concise manner the circumstances upon which the charge is based, that an investigation be made. The request should be sent to either the Faculty Welfare Committee or the chancellor. Violations of academic freedom are

complex and may also be predicated on unlawful discrimination. In such cases other grievance policies apply.

All matters pertaining to the grievance process are to remain confidential; however, the chair of the Faculty Welfare Committee may consult with the faculty chair to determine whether matters of procedure have been followed.

#### 6.4 THE GRIEVANCE HEARING

Upon receipt of the statement of grievance, the chair of the Faculty Welfare Committee will notify the respondent of the grievance and assemble a grievance hearing panel within fifteen (15) days (all time periods are business days). In the event a statement of grievance is received on or after May 1, the chair of the Faculty Welfare Committee will assemble a grievance hearing panel at the earliest date all parties are available, but no later than August 15.

##### 6.4a The Grievance Panel

The grievance hearing panel is selected from a grievance pool. The chair of the Faculty Welfare Committee ensures that the pool is elected annually at the beginning of the fall term to serve for one calendar year. The membership of the grievance pool consists of one tenured faculty member from each academic unit. Members may not have faculty administrative or supervisory responsibilities. Membership in the grievance pool does not preclude service on other standing university committees.

Upon receiving a request for a grievance hearing, the chair of the Faculty Welfare Committee randomly draws the names of three grievance pool members. Members of the grievant's academic unit are excluded from participation. If any pool member selected for the grievance panel has a conflict, they may excuse themselves from the panel. The grievant and the respondent each have the right to challenge one of the three grievance panel members. In the event of a challenge or self-disqualification, a replacement will be randomly drawn from eligible members of the pool. The three selected members of the grievance pool serve as the hearing panel and elect their own chair.

##### 6.4b The Hearing Process

Recognizing the time-sensitive nature of the grievance process, the committee meets as soon as practicable to review the grievance. If members determine that additional information is needed, the chair of the panel gathers any additional information pertinent to the grievance.

Requests for additional information must occur within fifteen (15) days of the election of the chair of the hearing panel. Requested materials must be received by the chair of the panel within fifteen (15) days of the request. Once these materials have been collected, the chair of the panel consults with the grievant and the respondent and sets a hearing date.

The chair of the panel then sends written notification that a grievance has been filed to all parties to the grievance, the grievance hearing panel, any party required for the proceedings, and the chair of the Faculty Welfare Committee. Notification includes the date, time, and place of the grievance hearing, as well as all information pertinent to the grievance. The hearing date must be within fifteen (15) days of the notification. The grievant may request a closed hearing.

The chair of the panel presides over the grievance hearing. The grievant and the respondent have the right to be present throughout the hearing; however, the grievant and/or respondent may waive, in writing, the right to be present. Both parties have the right to have an advisor or legal counsel present during the grievance hearing. Both parties have the right to cross-examine witnesses.

Upon conclusion of the hearing, the panel deliberates and makes a recommendation to the chancellor. In a written notification, to the hearing panel, all parties to the grievance, the chair of the Faculty Welfare Committee, the faculty chair, and the chancellor, the chair of the panel provides the panel's recommendation and its rationale..

Within fifteen (15) days, the chancellor provides a decision and justification in writing to the hearing panel, all parties to the grievance, and the chair of the Faculty Welfare Committee.