

Senate Document SD 10-12
(Amends SD 98-14)
(Amended and Approved, 2/14/2011)

Senate Document SD 98-14
(Approved, 2/8/1999)

TO: Fort Wayne Senate

FROM: Purdue University Committee on Institutional Affairs
Robert Barrett, Chair

SUBJ: Amendment to the Grievance Procedures for Purdue Academic Personnel at IPFW

DATE: January 6, 2011

DISPOSITION: To the Presiding Officer for implementation

Whereas the Fort Wayne Senate has approved the establishment of procedures to implement Executive Memorandum C-19 at IPFW; and

Whereas certain areas of the document needed clarification;

Be It Resolved, That the Senate approve the attached amendment to the Grievance Procedures for Purdue Academic Personnel at IPFW, developed by the Academic Personnel Grievance Board.

GRIEVANCE PROCEDURES FOR PURDUE ACADEMIC PERSONNEL AT IPFW

SECTION I DEFINITIONS

- A. Academic Personnel: All faculty members, tenured and non-tenured, full-time or part-time including those on leave of absence with or without pay. Post doctoral residents, post doctoral research assistants and associates, graduate aides, graduate assistants, graduate instructors, graduate assistants in research, and graduate instructors in research in their roles as academic employees of the University, but not in their roles as students, also are considered academic personnel for purposes of resolving grievances. All administrative and professional employee grievances are handled through the Grievance Policy and Procedure for Members of the Administrative and Professional Staffs while all clerical and service employee grievances are addressed through the Complaint and Grievance Procedure for Bi-Weekly Employees. Complaints of alleged harassment are resolved through the Interim Procedures for Handling Complaints of Harassment that accompany Executive Memorandum No. C-33.
- B. Grievance: A complaint initiated by an individual who claims to have been wronged by a University action or decision related to his/her employment. A grievance may be substantive and/or procedural in nature. It must be directed toward the University, not toward a person. An individual may seek formal resolution through the University to a specific action or decision only once.
1. Substantive Grievance: A complaint alleging that the substance of a decision or action regarding matters such as working conditions, classification, assignment/reassignment of duties, or employee rights or benefits was unfair or wrong. Complaints involving tenure or promotion; non-reappointment or non-extension of appointment; termination of tenured faculty for cause; or termination of non-tenured faculty, postdoctoral, or graduate student employees for cause prior to the expiration of their term of appointment normally cannot be the subject of a grievance on substantive grounds. However, if a grievance regarding tenure, promotion, non-reappointment, non-extension, or termination for cause is based on a charge of illegal discrimination, the grievance may be considered on a substantive basis.
 2. Procedural Grievance: A complaint asserting that an action was taken or a decision was made in a manner that violated a University policy, procedure, standard, or established practice. Any such alleged improper action or decision adversely affecting an individual's employment may be grieved on procedural grounds.

- C. Initiator: A person who seeks to resolve a complaint through the University grievance process.
- D. Respondent: The University employee(s) who made the decision or took the action on behalf of the University that precipitated the complaint.
- E. Advisor: An academic colleague invited by an initiator or respondent to provide advice at any point during the grievance process, including during a hearing.
- F. 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.
- G. Academic Personnel Grievance Board: A board whose composition is specified in the Bylaws of the Senate. Steering, Hearing, and Appeals Committees for a particular grievance shall be constituted from the Academic Personnel Grievance Board as specified below. The members of the Board shall elect a chair. The duties of the Board chair include conducting the informal proceedings; receiving grievance materials from the Vice Chancellor/designee, and the initiator; and constituting the Steering, Hearing, and Appeals Committees. The Board chair may meet with the Steering, Hearing, and Appeals Committees in an advisory role at the request of a committee chair at any point to clarify the process that has taken place and to clarify the procedure; however, the Board chair will not be a voting member of any of the committees. The Board chair shall consult with the campus Affirmative Action officer/designee for every submitted grievance to determine that record-keeping has been initiated. The chair shall not provide advice to the initiator or the respondent, or their advisors, regarding strategies and evidence that are likely to result in a favorable or unfavorable outcome for either party. The chair should strive to maintain a standard of objectivity and fairness throughout the grievance process.
- H. Time: All times in this document are expressed in terms of calendar days. Every attempt must be made to comply with the parameters specified in these procedures. When necessary, any time limit may be extended once up to one week at the request of any of the parties involved. Requests within reasonable limits – especially between semesters and during the summer – for longer extensions may be granted if a key person involved in the informal, formal, or appellate proceedings is unavailable. Unless other compelling circumstances exist, both the initiator and the respondent must agree to any other extension before approval will be considered. The Vice Chancellors for Academic Affairs shall be responsible for granting extensions and notifying all parties involved.

- I. Vice Chancellor's Designee: The Vice Chancellor for Academic Affairs shall designate the Affirmative Action Officer of the campus to handle all administrative matters concerning the initiation of and record-keeping associated with grievances. In the event that the Affirmative Action Officer is a party to the grievance, the Vice Chancellor for Academic Affairs shall designate an alternate, uninvolved party.

SECTION II INFORMAL PROCEEDINGS

Conflicts frequently can be resolved if the parties involved communicate their concerns, listen to each other, and show a willingness to compromise and/or change. Often conflicts can be lessened, if not eradicated, by clearing up misperceptions and misunderstandings. Purdue academic personnel at IPFW are strongly encouraged to try to take care of their employment related concerns in this manner.

- A. The initiator must begin informal resolution within 30 days of the time he/she first became aware or reasonably should have become aware of the alleged violation or within 30 days of his/her knowledge of the most recent incident in a series of related actions or decisions comprising the complaint.
- B. To begin the informal process, the initiator must state his/her concerns in writing. 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, standard, or established practice supposedly misinterpreted or violated if the concern is procedural in nature; the name(s) of the person(s), if known, responsible for the alleged impropriety; and the remedy sought. This letter should be sent to the Chair of the Academic Personnel Grievance Board.

The Chair of the Academic Personnel Grievance Board shall meet separately with the grievant and the respondent(s) to discuss the grievance and clarify the procedure. In these meetings the Chair shall attempt to find a resolution that would avoid a formal hearing. In so doing, the Chair might (but is not required to) hold a joint meeting with grievant and respondent(s) or offer a remedy that both might find satisfactory.

- C. The informal process must be completed within 30 days from the time a written complaint is received unless an extension of time has been granted.
- D. The initiator must be informed in writing of the outcome of the informal proceedings including the findings and any actions that are proposed, have been, or will be taken.

- E. If the initiator does not receive a written response to his/her concerns within the time limits specified in Section III. C or if the initiator is not satisfied with the findings, conclusions, proposed actions, or actions, the initiator may pursue resolution of his/her complaint through formal proceedings.

SECTION III FORMAL PROCEEDINGS

- A. Before requesting a formal hearing, an initiator must try to resolve the complaint through the informal process.
- B. To begin formal proceedings, the initiator must notify the Vice Chancellor for Academic Affairs in writing of his/her intentions no later than 30 days after receiving notification of the outcome of the informal proceedings or 30 days after it became clear that a response would not be received in a timely manner. If the Vice Chancellor is a party or respondent to the complaint, the initiator should send notice requesting a formal hearing to the Chancellor who shall designate within one week another University faculty or administrative staff member, preferably the Affirmative Action Officer, to perform the role assigned to the Vice Chancellor in Sections I, II, and III of these procedures.
- C. The initiator's notification must be in writing 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.
- D. The Vice Chancellor/or 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 must furnish a written response within one week.
- E. Upon receipt of the respondent(s) statement(s), the Vice Chancellor/designee shall forward the materials received from the initiator and the respondent(s) to the chair of the Academic Personnel Grievance Board.
- F. The Academic Personnel Grievance Board chair shall constitute a five member Steering Committee drawn from the Board's membership. No one may serve on a Steering Committee who is employed in the same academic department as the initiator or respondent or who has a conflict of interest with either party. From the Steering Committee's membership, a chair shall be selected to conduct meetings and issue all communication on behalf of the Committee. The Steering Committee may allow either the initiator or the respondent to

submit additional information after receiving the grievance materials from the Vice Chancellor/designee. Likewise, the Steering Committee may request additional information from either party. Upon allowing or requesting additional information, the Steering Committee must notify the other party of receiving the information in order to provide them with the opportunity to view the new information.

- G. After reviewing the materials forwarded by the Vice Chancellor/designee, the Committee must conclude one of the following by majority vote and convey its decision to the Vice Chancellor/designee within four weeks of receiving the complaint:
1. The initiator either did not begin or failed to complete the informal process within the allotted time. No further action is warranted, or
 2. Although the time allotted has not expired, the initiator either has yet to begin or to complete the process for resolving grievances informally. Therefore, prior to being eligible for consideration for a formal hearing, the initiator must begin and/or complete the informal process within the allotted time, or
 3. Informal remedies were pursued by the initiator, but the University employee(s) responsible for responding did not do so within the allotted time. At this point, the nature of the complaint determines whether formal proceedings should continue. If the allegation is grievable (see Section I.B.1. - 2.), a formal hearing should be constituted. If the nature of the allegation is not grievable, no further action is warranted, or
 4. The informal process was completed, but the nature of the allegation is not grievable, or sufficient grounds do not exist indicating an unfair, wrong, or procedurally incorrect decision or action that warrant a formal hearing, or
 5. The informal process was completed, and sufficient grounds exist for initiating a formal hearing.
- H. The Vice Chancellor/designee shall inform the initiator and the respondent(s) of the Committee's decision. If the Committee concludes that a formal hearing is warranted, the Vice Chancellor/designee must indicate so to the Chair of the Academic Personnel Grievance Board and ask the Board to proceed accordingly.
- I. Hearing Committee composition and proceedings must include the following:
1. All members of a grievance hearing committee shall come from the Academic Personnel Grievance Board. No one who served on the Steering Committee shall serve on the

Hearing Committee for the same grievance.

2. Each formal hearing shall be conducted by an impartial Hearing Committee of five faculty drawn from the committee's membership. No one may serve on a Hearing Committee who is in the same academic-department as the initiator or the respondent, nor shall prospective Hearing Committee members serve if they have a conflict of interest with either party. They also may withdraw from consideration if they have a scheduling conflict with an out-of-town commitment or served on another Hearing Committee that semester. In addition, the initiator and the respondent each may exclude up to three members from the slate of prospective panelists. If fewer than five members remain, the hearing may be conducted by a three-member committee. If additional panelists are needed, the chair of the Academic Personnel Grievance Board shall inform the Vice Chancellor/designee accordingly. The latter shall randomly select the number of additional faculty needed to constitute a committee from the voting faculty. Panelists so selected must meet all the criteria stated above. In addition, they may choose to withdraw from further consideration for the reasons noted above.
3. The chair of the Hearing Committee, who shall be selected by the committee from its membership, must be a tenured faculty member. The chair shall be responsible for conducting meetings and issuing all communication on behalf of the committee.
4. At anytime before the hearing, the initiator may withdraw the grievance. Once the hearing begins, however, the grievance may be withdrawn only under the following conditions:
 - a. The initiator decides that the action or decision being grieved is no longer inappropriate, or
 - b. the respondent agrees to provide relief acceptable to the initiator, or
 - c. both parties request the grievance be withdrawn.
5. Formal hearings shall begin no later than four weeks after a Hearing Committee is constituted. (See Section I.H. for provisions to extend this time if necessary, especially between semesters or during the summer.)
6. The hearing shall be open only to the participants unless both the initiator and the respondent request otherwise. The person designated by the VCAA in Section I, Item I above shall routinely solicit from each party to a grievance permission for an open hearing, and if such permission is not granted shall solicit an explanation for the refusal.

7. The initiator and the respondent each may invite up to two faculty, staff, or graduate student colleagues from their campus 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. However, they may not provide testimony, make statements, or otherwise participate in the hearing, except that the closing statement for each party may be delivered by the party or by one of that party's advisors.
8. Both the initiator and the respondent may present oral and written statements, question each other, introduce witnesses, and question all witnesses.
9. The order in which the various elements of the hearing described below occur shall be as follows. The panel 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 panel chooses to set them, should be sent to both the initiator and the respondent at least one week prior to the hearing.

Order of events at the hearing:

Opening statement by Hearing Committee

Opening Statement by Grievant

Opening Statement by Respondent(s)

Presentation of Witnesses by Grievant

Presentation of Witnesses by Respondent(s)

Presentation of Witnesses by Hearing Committee

Closing Statement by Grievant

Closing Statement by Respondent(s)

Closing Statement by Hearing Committee

[Questioning of witnesses shall proceed as follows: Questions by presenter, questions by other party, questions by Hearing Committee; repeated as necessary]

10. Each witness may be present at the hearing only when he/she is making a statement or

being questioned. An advisor may not also be a witness, nor may a witness be an advisor.

11. The Hearing 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.
12. No new allegations may be introduced into the hearing.
13. All Committee members, participants, and advisors must respect the confidentiality of the information and records introduced into the hearing.
14. An audio recording shall be made of the hearing and shall be archived in the office of the Affirmative Action Officer for a period of two years after the conclusion of the hearing. A copy of this recording shall be kept in the Office of the Vice Chancellor for Academic Affairs or designee, for use by the panel, the initiator, the respondent, the chancellor/dean, or the latter's designees should any want to review the proceedings. A written transcript will not be provided.
15. 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 panel outside the hearing, it must be shared with both 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 panel and both parties (either or both parties, however, may waive the opportunity to be present) or the panel must prepare a written summary of the information gained and share it with both parties for review and comment.
16. The panel 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.
17. Within two weeks after the completion of the hearing, the panel shall report its findings, conclusions, and recommendations in writing to the chancellor. Copies of the report also should be sent to the initiator and the respondent(s).
18. The decision concerning the outcome of the hearing shall be made by the chancellor and announced in writing within two weeks of receipt of the panel's recommendation. If the chancellor participated in the hearing or otherwise was involved in the grievance, the President must appoint another University employee not associated with the case to make

and announce the decision.

19. If the person making the decision decides to take action other than that recommended by the hearing panel, the panel must be informed accordingly.
20. Copies of the decision should be sent to the initiator, respondent(s), panel, and Vice Chancellor for Academic Affairs/ Services, or their designee.

SECTION IV APPELLATE PROCEEDINGS

- A. The initiator shall have the right to appeal the outcome of the formal proceedings if he/she believes he/she
 1. was wrongfully denied an opportunity by a grievance steering committee to have a formal hearing, or
 2. did not have a formal hearing that culminated in a decision even though a grievance steering committee concluded that a formal hearing was warranted.
- B. Either the initiator or the respondent may appeal the outcome of a formal hearing if either
 1. feels a significant procedural error occurred during the formal proceedings which likely could have influenced the panel's recommendation or the chancellor's/designee's decision, or
 2. has significant new information related to the grievance that was not known at the time of the hearing which, had it been introduced, he/she feels likely could have changed the panel's recommendation or the chancellor's/designee's decision.
- C. A person wishing to appeal the results of a formal hearing must do so in writing within 30 days of receiving a grievance steering committee's decision not to grant a formal hearing, within 30 days after it became clear that a mandated formal hearing culminating in a decision was not going to occur, or within 30 days of receiving the decision concerning the outcome of a formal hearing. Academic personnel should send notice to the Vice Chancellor for Academic Affairs. If the Vice Chancellor is a party to the grievance, the initiator should send notice requesting an appellate hearing to the Chancellor who shall designate another University faculty or staff member to perform the role assigned to the Executive Vice President/Vice Chancellor in Sections I, II, and IV of these procedures.

- D. Such notice must include a description of the facts giving rise to the appeal and the remedy sought. If the appeal is based on the failure of a grievance steering committee to grant a formal hearing, the appropriate grievance hearing committee to conduct or complete one, or the chancellor's/dean's failure to render a decision, the Vice Chancellor/designee shall send a copy of the allegations to the chair of the appropriate committee or the chancellor for review and reply. The respondent(s) must furnish a written response within one week.
- E. If the appeal is based on the provisions outlined in Section IV.B., the notice also must include a description of the alleged procedural irregularities or the new information since discovered supporting the request along with a statement indicating how these alleged irregularities or this new information could have influenced the outcome of the formal proceedings. If the request for an appeal is based on new information, the party also must indicate why he/she was not aware of this information at the time of the formal proceedings. The Executive Vice President/Vice Chancellor/designee shall forward a copy of the materials received from the initiator to the chair of the hearing panel. The chair must provide a written response within one week.
- F. The Vice Chancellor/designee shall then forward all of the material received related to the appeal from the initiator and the responding party(s) to a five member impartial panel constituted by the chair of the grievance committee from the membership of the committee that did not serve on an earlier panel considering this grievance. If fewer than five members are available, the request for an appeal may be heard by a three-member panel. If the appeal involves an alleged procedural error related to a formal hearing, the Vice Chancellor/designee also shall forward a copy of the audio recording of that hearing.
- G. No one may serve on a panel who is employed in the same department as the initiator or respondent or who has a conflict of interest with either party. From the panel's membership, a chair shall be selected to conduct meetings and issue all communication on behalf of the panel. After reviewing the materials forwarded by the Vice Chancellor/designee, the panel must conclude one of the following by majority vote and convey its decision to the Vice Chancellor/designee within four weeks of receiving the request for an appellate hearing:
1. Insufficient grounds exist to support the appeal. No further action is warranted, or
 2. The initiator was wrongfully denied a formal hearing by a grievance steering committee. A formal hearing should be conducted per Section IV, or
 3. A grievance hearing committee failed to conduct or complete a hearing mandated by a grievance steering committee or the chancellor/designee did not render a decision concerning the case. Another grievance hearing panel should conduct a formal hearing

per Section IV, or

4. Significant new information related to the grievance that was not known at the time of the formal hearing has been discovered which, had it been introduced, likely could have changed the panel's recommendation or the chancellor's/designee's decision. The appropriate grievance appeals committee should hear the case de novo, or
 5. The procedural error which occurred during the formal proceedings likely could have influenced the panel's recommendation or the chancellor's/designee's decision. The appropriate grievance appeals committee should hear the case de novo.
- H. The Vice Chancellor/designee shall inform all parties involved of the panel's decision. If the panel concludes that a formal or an appellate hearing is in order, the Vice Chancellor/designee must ask the chair of the grievance committee to constitute an impartial five member panel to hear the case.
- I. The grievance appeals committees shall be constituted and proceed as specified above.
- J. The panel shall conduct the hearing as expeditiously as possible. Within two weeks after the hearing has been completed, the panel must report its findings, conclusions, and recommendations in writing to the President of the University. Copies of all materials forwarded by the panel also should be sent to the initiator and the respondent(s). The President shall make and announce the disposition of the appeal within two weeks of receipt of the panel's recommendation. Copies of the decision should be sent to both parties, the panel, the Vice Chancellor, and Chancellor. If the President decides to take action other than that recommended by the panel, the panel must be informed accordingly. The President's decision regarding the appeal shall be final.

SECTION V OTHER PROVISIONS

The procedures outlined above shall pertain to grievances initiated on or after July 1, 2011.