FACULTY

GRIEVANCE

PROCEDURE

Of The

University of Massachusetts

At Worcester

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UNIVERSITY OF MASSACHUSETTS AT WORCESTER

FACULTY GRIEVANCE PROCEDURE

1. Scope, Purpose and Definitions

1.1 A faculty grievance is defined as a complaint by a faculty member concerning a decision or action that directly and adversely affects the grievant as an individual in his or her professional academic capacity. In most instances, a faculty grievance is an allegation of a violation of personnel policies and procedures promulgated under the Academic Personnel Policy of the University of Massachusetts at Worcester (Doc. T80-011B, 1986). The following types of decisions, which are listed by way of example and do not constitute an exhaustive list, can be the basis of a grievance: (1) promotion and tenure; (2) non-reappointment; (3) assignment of teaching and other primarily academic responsibilities; (4) support and sponsorship of scholarly research.

1.2 The purpose of the Faculty Grievance procedure is to encourage prompt and equitable resolution of grievances by either informal or formal means as specified in this document.

1.3 Two categories of grievances fall outside the scope of the Faculty Grievance Procedure: (1) those based solely or substantially on alleged violations of affirmative action policies and procedures or perceived discrimination on the basis of race, color, religion, sex, age, national
origin, veteran status, or handicap; and (2) those related to suspension or
revocation of clinical privileges or to other adverse actions brought against
an individual in his or her capacity as a member of the University Hospital
medical staff. Grievances in the first category must be initiated through
the University of Massachusetts at Worcester Affirmative Action
Grievance Procedure, and grievances in the second category must be
processed according to the bylaws of the University Hospital.

1.4 For purposes of this document, the term “grievant” refers to any faculty
member as defined in 2.1 below who initiates a grievance by informal
and/or formal mechanisms. The term “respondent(s)” refers to the
individual(s) who made the decision or carried out the action which is the
subject matter of the grievance. The phrase “stipulations of fact” refers to
any written statement(s) of agreement made between the parties
concerning any of the issues involved in the grievance.

1.5 The role of the Faculty Grievance Committee is to consider formal written
grievances submitted by faculty members of the University of
Massachusetts at Worcester. In discharging this responsibility, the
Committee shall function as an independent faculty body whose specific
objectives are (1) to evaluate a grievance and determine its validity
through a fact-finding and deliberative process, and (2) to make one or
more written recommendations to the Provost concerning disposition of
the grievance. The standard of review of a grievance by the Committee
shall be twofold. First, the Committee shall determine whether
appropriate campus and university academic policies and procedures have been followed in a particular case. Second, the Committee shall determine whether or not the original decision (which is the subject of the grievance) was arbitrary or capricious.

2. **Application**

2.1 The University of Massachusetts at Worcester Faculty Grievance Procedure applies to all faculty members who are covered by the Academic Personnel Policy (Doc. T80-011B, 1986).

3. **Grievance Procedure**

3.1 Any faculty member to whom the grievance procedure applies and who believes there has been a violation as defined in 1.1 may file a formal written grievance with the Faculty Grievance Committee. Such a grievance must be filed within sixty (60) calendar days of the time that the grievant knew or reasonably should have known of the alleged violation.

3.2 As an alternative to filing a formal grievance, the faculty member/grievant is strongly encouraged to approach the Department Chair and/or the Dean of his/her school and/or the Provost on an informal basis. The involved individuals should attempt to resolve the grievance outside the formal grievance procedure whenever possible. However, this informal stage in the grievance procedure is to be undertaken solely at the option of the grievant and is not a prerequisite to filing a formal grievance.

3.3 If the grievant first utilizes the informal stage of the grievance procedure, the parties must reach a resolution or terminate informal efforts within
fifty-five (55) calendar days of the time the grievant knew or reasonably should have known of the alleged violation.

3.4 If the parties directly involved in the grievance at the informal stage are unable to settle their differences during or by the end of the time period outlined in 3.3, the party wishing to terminate the informal stage shall so indicate to the other party in writing. The grievant may then file a formal written grievance with the Faculty Grievance Committee of the University of Massachusetts at Worcester. As provided in 3.1, a formal written grievance must be filed no later than sixty (60) calendar days of the time the grievant knew or reasonably should have known of the alleged violation, whether or not (1) he/she has utilized the informal stage of the grievance procedure, or (2) there has been a written notification of termination of the informal stage.

3.5 The grievant filing a formal written grievance shall send such grievance to the Provost, who in turn shall send copies of the written grievance to the Chair and other members of the Grievance Committee, to the Dean of the school and to the appropriate respondent(s).

3.6 The grievant shall include the following in his/her formal written grievance: (1) the specific basis for the grievance, i.e., in most instances, specification of the personnel policy (or policies) and/or procedure(s) violated; (2) the particulars of the alleged violation; (3) the remedy desired by the grievant.
3.7 A quorum (viz., majority) of the Faculty Grievance Committee shall
normally hold a preliminary meeting within twenty-one (21) calendar days
of the receipt of a written formal grievance. In the event a quorum of the
Committee cannot meet within twenty-one (21) days, the Committee may
conduct its meeting by telephone.

3.8 The Faculty Grievance Committee shall determine on the basis of the
written formal grievance, and, at the Committee’s option, on the basis of
preliminary discussions with the grievant, whether an issue has been
raised which is grievable (i.e., whether the grievance would have merit if
the allegations were true, and shall communicate to the grievant within
seven (7) calendar days of its preliminary meeting its decision on whether
to conduct a hearing. In the event the Committee determines that no
grievable issue has been raised and therefore no hearing should be
conducted, the Committee shall make such a recommendation in writing
to the Provost and shall send a copy of its recommendation to the grievant.
After reviewing the Committee’s recommendation and consulting with the
Dean of the school, the Provost shall decide whether or not a hearing
should be conducted. If the Provost decides in favor of a hearing, he/she
shall so inform the Chair of the Committee and the grievant and the
Committee shall proceed with a hearing. If the Provost decides against a
hearing, his/her decision shall be final and he/she shall so inform the Chair
of the Committee and the grievant. The Provost must render his/her
decision within seven (7) calendar days of receipt of the Committee’s
recommendation. In cases involving involuntary termination or denial of
tenure, the Committee may not deny a formal hearing.

3.9 Once the decision to conduct a formal hearing has been made by either the
Committee or the Provost, the Committee must initiate such a hearing
within a reasonable time, normally within twenty-one (21) calendar days.

3.10 At no time shall any faculty member suffer retaliation because he/she has
filed a grievance.

4. **Conduct of Hearings**

4.1 The Faculty Grievance Committee Chair or designee may, with the
consent of the parties concerned, hold preliminary meetings with the
parties in an attempt to (1) define the issues; (2) arrive at stipulations of
fact, i.e., identity and put in writing any points of agreement between the
grievant and respondent(s); (3) provide for the exchange of documentary
or other information, and (4) achieve such other appropriate prehearing
objectives as will make the hearing fair, effective, and expeditious.

4.2 No member of the Faculty Grievance Committee who has been directly
involved in the personnel action which has given rise to the grievance
shall participate in the capacity of Committee member in the deliberations
of the Committee or in the conduct of the hearing. Such a Committee
member shall withdraw from the grievance case either at the request of the
grievant, the respondent(s) or the Chair, or on the member’s own
initiative. In addition, any Committee member who, while not having
participated in the personnel action, deems him/herself disqualified
because of conflict of interest, bias or other factors that may interfere with his/her ability to be an objective participant shall withdraw from the case

4.3 The Chair of the Faculty Grievance Committee shall arrange the time and place of all hearings and shall so inform the Provost. The Provost shall then send (1) a written notice at least ten (10) calendar days in advance of the hearings, and (2) a copy of the grievance procedure to the grievant and all respondents.

4.4 All hearings shall be open only to the Faculty Grievance Committee members, the grievant, the respondent(s) any faculty advocates (see Section 4.5), and any other persons presenting information. Persons whose sole role is to present information may be present only while providing such information or answering questions unless all concerned agree otherwise.

4.5 The grievant may present oral or written statements or other information concerning his/her grievance to the Committee. Other individuals called to provide information to the Committee may likewise present oral and/or written statements or other information. The grievant and any respondent may each enlist the assistance of one faculty member covered by this policy. Such faculty advocate(s) must be designated at the beginning of the hearing and may be changed solely at the discretion of the Committee. Such faculty advocate(s) may present the issues on behalf of the grievant or respondent as the case may be and may also serve as a witness. The grievant and respondent may each present additional witnesses, provided
that such witnesses can furnish information relevant to the hearing as
determined by the Committee.

4.6 Neither the grievant nor any respondent(s) may have the assistance of
attorney(s) (including attorney(s) who may be members of the faculty) at
the grievance hearing.

4.7 The Faculty Grievance Committee shall not be bound by strict rules of
legal evidence and may admit any information which is of probative value
in determining the issues involved. Admission of any information is at the
discretion of the Committee. Every reasonable effort shall be made to
obtain the most reliable information available.

4.8 The Administration of the Medical Center shall, insofar as it is possible to
do so, secure cooperation of witnesses and shall make available such
documents and other information within its control, as are necessary for
the presentation of the grievant’s or respondent’s case or for the
deliberations of the Committee, subject to applicable regulations under the
Fair Information Practices Act (M.G.L. Chap. 66A sec. 1 et seq.). The
Committee, on its own initiative, may seek additional information,
including the calling of additional witnesses, not already provided by the
grievant or the respondent(s).

4.9 The grievant or his/her advocate and the respondent(s) or his/her advocate
may present statements and may ask questions of each other and of the
witnesses. The members of the Committee may also ask questions and
may provide information relevant to the hearing. The Chair of the
Committee shall conduct the proceedings and may limit the proceedings as deemed appropriate.

4.10 The findings and recommendation(s) of the Faculty Grievance Committee shall be based solely on the formal hearing (including any stipulations of fact and/or other prehearing agreements reached pursuant to Section 4.1).

5. **Withdrawal of a Grievance**

5.1 At any point in the proceedings prior to the time at which the Faculty Grievance Committee meets to consider its decision, the grievant may withdraw the grievance with the consent of the Committee. A request to the Committee for withdrawal of the grievance shall be in writing to the Chair.

6. **Findings and Recommendations of the Faculty Grievance Committee**

6.1 Normally within thirty (30) calendar days of the close of the grievance proceedings (i.e., the close of the formal hearing), the Faculty Grievance Committee shall submit a written report to the Provost, who shall send copies of the report to the grievant, the respondent and the Dean of the school.

6.2 Said written report referred to in 6.1 shall include the findings of the Committee and the Committee’s recommendation(s), if any, for such administrative action as deemed appropriate by the Committee.

6.3 The Provost, after consulting with the Dean of the school, shall issue to the grievant a written decision on the grievance normally within thirty (30) calendar days of receipt of the Faculty Grievance Committee’s report.
Copies of said written decision shall be sent to the Faculty Grievance Committee Chair and the respondent.

7. **Appeal**

7.1. In the case of a grievance relating to removal from academic appointment or a negative tenure decision, the grievant may appeal the Provost’s decision to the Chancellor who shall issue to the grievant a written decision on the grievance normally within thirty (3) calendar days of receipt of the appeal. At the time an appeal is filed, notice of said appeal shall be sent by the grievant to the Provost, who shall send copies of the notice to the Chair of the Faculty Grievance Committee and to the respondent. A copy of the Chancellor’s written decision shall be sent to the Chair of the Faculty Grievance Committee, to the Provost and to the respondent. In the case of a grievance relating to denial of tenure, the Chancellor’s decision shall be final. In the case of a grievance relating to removal from academic appointment, the grievant may appeal the Chancellor’s decision to the appropriate standing committee of the Board of Trustees. At the time an appeal is filed, notice of said appeal shall be sent by the grievant to the Provost, who shall send copies of the notice to the Chair of the Faculty Grievance Committee, the Chancellor, and the respondent. In the case of an appeal to the appropriate standing committee of the Board of Trustees, said committee’s decision shall be final.
7.2. In the case of an appeal referred to in 7.1, the grievant must appeal the Provost’s or Chancellor’s decision within fourteen (14) calendar days of receipt of that decision.

7.3. In all other cases not covered by 7.1, the Provost’s decision shall be final.