

# **Faculty Grievance Policy**

## **Proposed by Faculty Welfare Committee**

### **February, 2010**

Salisbury University has established the Faculty Grievance Policy to give faculty members of the University community a forum in which to address concerns related to matters involving the interpretation or application of University policies including disciplinary action. This policy provides a method for aggrieved faculty to express substantive complaints about denials of tenure, academic policy concerns, or other faculty issues and have them resolved by the appropriate University officials in a timely fashion. The following matters are not covered by these grievance procedures:

- Claims involving alleged discrimination or harassment
- Claims relating only to alleged violations of policies which were promulgated exclusively by the University System of Maryland, actions of the Board of Regents or actions of the Chancellor of the System, over which SU has no jurisdiction
- Retrenchment appeals
- Grievances against University police officers that could result in the imposition of any discipline against the officer(s)

### **Jurisdiction and General Procedures**

In all matters involving denials of tenure and any complaints that a faculty member's academic freedom has been directly restricted, including disputes with other faculty or administrators over grades or grading policies, the grievance shall be referred to the Academic Freedom and Tenure Committee. In matters related to other academic policy concerns, the grievance shall be referred to the Academic Policies Committee. In all other matters, the grievance shall be referred to the Faculty Welfare Committee.

### **Jurisdictional Disputes**

If a dispute arises over the jurisdiction of the committee assigned to decide the matter, the President of the Faculty Senate, in consultation with the chairs of the committees noted above and the Office of the Provost, shall decide the appropriate committee that should hear the matter. (Jurisdictional disputes shall be directed to a member of the Office of the Provost other than the Provost in order to avoid any conflict of interest, as the Provost would ultimately decide an appeal of the committee's findings in such a case.)

### **Confidentiality**

Matters pertaining to any grievance must be kept in confidence by the parties directly involved. Committee findings will only be provided to the parties and other appropriate

University personnel on a need to know basis (e.g. Committee members, Department Chair, Dean of the school, the Provost, the President).

## **Timeline**

All time limitations contained within this policy may be extended for good cause as determined by the President of the Faculty Senate, relevant committee, or Provost. Failure to adhere strictly to the timelines shall not be grounds for appeal unless significant prejudice has occurred.

## **Procedures**

### *Informal Grievance*

Faculty members are encouraged to attempt to resolve differences between themselves and others in an informal manner prior to initiating a formal grievance under this policy. This may entail only a conversation in which the views of both parties are aired in a mutually satisfactory manner or a conversation using a neutral third party for mediation. If an informal resolution cannot be achieved, the grievant may elect to begin the formal grievance procedure that follows.

### *Formal Grievance*

#### Timeline

A formal grievance must be filed within 20 working days of the date on which the grievant knew or should have known of the action that led to the grievance. Nothing in this policy is to be construed to inhibit or prevent the grievant from withdrawing a formal grievance once the formal grievance procedures have begun.

#### Requirements

A formal grievance must set forth in writing a statement which clearly defines the basis for the grievance, including a chronology of events leading up to the grievance, the names of people with knowledge of the event, pertinent dates, a description of the actions taken against the grievant which led to the dissatisfaction and a proposed resolution to the situation. Any documentation relevant to the grievance should be attached in written form. If known, information about relevant University policies should be provided. The grievant has the burden to prove by a preponderance of the evidence that the action or inaction complained about did occur and that it was inconsistent with University policies or procedures.

#### Responses

Faculty and committees who receive written formal grievances must respond to the grievant in writing. The written response should address the specific issues raised in the grievance and include all pertinent information.

#### Procedural Steps

### Step One

The grievant must submit a formal grievance in writing to the person alleged to be responsible for the actions leading to the grievance within 20 working days of the date on which the grievant knew or should have known of the action that led to the grievance. The person alleged to be responsible for actions leading to the grievance will provide a written response to the grievant within five working days of receiving the formal grievance.

### Step Two

If the response is not satisfactory to the grievant; he or she has five working days to file the grievance with the direct supervisor of the person alleged to be responsible for the actions leading to the grievance. The grievant must include all prior written responses. The direct supervisor of the person alleged to be responsible for the actions leading to the grievance will provide a written response to the grievant and to the person alleged to be responsible within five working days of receiving the formal grievance.

### Step Three

If the direct supervisor's response is not satisfactory, the grievant has five working days to file the grievance with the dean of the school in which the dispute has occurred. The grievant must include all prior written responses. The dean of the school will provide a written response to the grievant within five working days of receiving the grievance.

### Step Four

If the response from the dean of the school is not satisfactory, the grievant has five working days to forward the grievance to the Office of the Provost. The grievant must include all prior written responses. The Office of the Provost will refer the grievance to the appropriate committee for consideration and will notify the President of the Faculty Senate of the referral to Committee. If not all necessary members of the appropriate Committee are available, the President of the Faculty Senate in consultation with the Associate Provost will appoint temporary members to allow for a quorum of the committee to handle the matter.

### Committee Review of Evidence

The Committee normally has 10 working days of receiving the formal grievance to decide among the following options:

1) **review submitted evidence:** render a written decision based on the documents and materials submitted with the appeal;

2) **investigation:** render a written decision based on a series of interviews, a review of documents, and any/or other action deemed appropriate for the purpose of collecting additional information and evidence necessary for an informed and reasoned judgment to be rendered. The investigation, including interviews, will usually be completed within 20 working days of the decision to conduct an investigation; or

3) **hearing:** render a written decision based on a hearing. If the Committee determines that a hearing is to be held, the committee shall send written notice of the time, date, and location to all parties. The hearing shall be conducted as follows:

- The hearing shall be held at a reasonable time when all parties (to the extent possible) are available or have an opportunity to be present.
- The parties shall be entitled to make opening and closing statements.
- The parties shall be entitled to present evidence through witnesses and documents, and shall be entitled to question witnesses. At the discretion of the Chair of the Committee, direct questioning by a party of a witness, including an opposing party, may not be permitted; rather, the parties may be required to convey their questions to the Committee Chair, who will convey them to the witness.
- All parties, the grievant and subject of the grievance are permitted to seek the support of a non-legal advocate for assistance in the preparation of a case before the Committee. The advocate may provide counsel during the hearing but shall not officially speak or participate formally in the proceedings. In all cases, the advocate must be a member of the University faculty, staff, or student body.
- Neither party may be represented by an attorney at the hearing, unless they are facing or are likely to face criminal charges relating to the subject of the grievance. Under such circumstances University legal counsel must also be present. At no time may legal counsel give statements or participate in questioning witnesses and Committee members.
- The hearing shall be closed with attendance limited to individuals directly connected with the case as determined by the Chair of the Committee.
- Formal rules of evidence need not be followed at the hearing. The Committee may receive such evidence as a reasonable person would consider reliable in making important decisions. If a question arises about the authenticity of a document or the reasonableness, relevance or redundancy of evidence, the Chair of the Committee shall be the final decision maker on the evidence's admissibility.
- The parties may request, in writing, that the Committee contact specified persons to appear at the hearing to testify on behalf of the parties. The request must be made at least five working days before the scheduled hearing in order to allow ample time for the Committee to make the requests.
- The Chair of the Committee shall be responsible for conducting the hearing in an efficient and decorous manner and shall rule on all disputes related to the procedures used throughout the proceedings. Reasonable limits may be set by the Chair on the length and nature of the opening statements, the evidence presented and on the duration of the hearing. At any time, the Chair may seek the advice of university legal counsel.

- Since the University lacks full judicial authority, such as the power to subpoena or place witnesses under oath, a party's procedural rights cannot be coextensive with or identical to the rights afforded the accused in a civil or criminal legal proceeding. The procedures outlined are designed, however, to assure fundamental fairness and to protect parties from arbitrary or capricious disciplinary action. Deviations from these procedures shall not necessarily invalidate a hearing or the results of a hearing unless significant prejudice results.
- When possible the hearing should be completed within 20 working days of the decision to conduct a hearing.

### *Committee Findings*

After the Committee has completed its review, the Committee shall issue a written decision based on findings of fact and conclusions, including procedures followed and any applicable University policies and procedures, usually within ten working days, and shall provide a copy of the findings to all directly involved parties, including the grievant, the person alleged to be responsible for the actions leading to the grievance, and other appropriate University officials on a need to know basis (e.g. Committee members, Department Chair, Dean of the School, the Provost, the President). The Committee shall provide written notice to the President of the Faculty Senate that it has reached a decision in the case.

### *Appeal of Committee's Findings*

If either party elects to appeal the decision of the committee, he or she must provide written notice of the appeal to the Provost, within five working days from the date of the Committee's written decision. The written appeal should set forth all of the reasons that support reversal of the Committee's decision and include any supporting documentation.

The Provost's review is limited and the appellant shall have the burden to prove anyone exceeded their given authority and/or discretion and/or materially failed to follow proper procedures. The Provost has the discretion to take any action necessary to thoroughly complete a review, and then will issue a decision, which will be binding and final. The outcome of the appeal will be conveyed in writing to all directly involved parties, including the grievant, the person alleged to be responsible for the actions leading to the grievance, and other appropriate University officials on a need to know basis (e.g. Committee members, Department Chair, Dean of the School, the President). The Provost shall provide written notice to the President of the Faculty Senate that an appeal has been filed and settled. Findings will only be provided to University personnel on a need to know basis as set forth in the Confidentiality section above.