

Mailed
5/18/05

Senate Recommendation to the Provost

Originating Body The Faculty Senate Originator Dr. Michael O'Loughlin, president

Date submitted April 11, 2005

Requested Effective date ASAP

Recommendation To accept revision of Policy on Grievance Procedures developed by the Academic Policies Committee and passed by the Faculty Senate, March 29, 2005.

Attach any supporting documentation. *Cover letter, President of the Faculty Senate.*

Action Taken by Provost:

Date 5/17/05

☒ Recommendation Accepted ☐ Recommendation Not Accepted

☐ Recommendation returned to Originating Body for further review (see attached)

Disposition for Approved Recommendation:

☐ President
☒ Faculty Senate Chair
☐ Forum Chair
☒ Webmaster
☐ Catalogue Editor
☒ Student Handbook Editor
☒ Faculty Handbook Editor

☒ VP Student Affairs
☐ VP Finance
☒ School Deans
☐ Graduate Council
☐ Provost Council
Other: _____

Signature: _____

provost/scw/121802

Approved version incorporates editorial
changes proposed by University legal counsel
and approved by Senate President.
DHB

April 11, 2005

TO: Dr. David Buchanan, Provost

FROM: Michael O'Loughlin, President, Faculty Senate



RE: Faculty Senate recommendation for revision of Policy on Grievance Procedures.

Dear Dave,

After two Senate sessions, the Faculty Senate unanimously passed the proposed revisions to the Policy on Grievance Procedures, written by the Academic Policies Committee, chaired by Dr. Tony Whall, Professor of English. The focus of the revisions was to clarify and streamline the text for an improved understanding of the policy intentions and steps to undertake for grievance purposes.

The consensus of the Senate is that this is an improved document and recommend it to you for your consideration and approval.

II – 4.40: Policy on Grievance Procedures

I. Introduction

Salisbury University has established the University Grievance Policy to give members of the University community a forum in which to express concerns related to matters involving discipline, unlawful discrimination, or the interpretation or application of University policies. The Policy provides a method for aggrieved individuals from all sectors of campus life, including students, employees, and faculty, to express substantive complaints about University faculty or administrators and have them resolved by disinterested parties in a timely fashion.

The following matters are not covered by these grievance procedures:

- Claims involving discriminatory 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;
- Student disciplinary matters including alleged violations of academic integrity;
- Grievances against University police officers that could result in the imposition of any discipline against the officer(s).

The following groups shall have jurisdiction over grievances:

Grievances filed by faculty: 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.

Grievances filed by students: Formal Student Grievances are filed in accordance with the procedures outlined below.

Grievances filed by regular¹ nonexempt employees: These grievances shall be handled in accordance with University System of Maryland Policies and /or any MOU applicable to the grievant.

Grievances filed by administrative exempt employees: These grievances shall be handled in accordance with Procedures Governing the filing and Processing of Grievances for Administrative Staff Personnel, found in Appendix M of Laws Relating to and Governing Policies and Procedures of the Board of Trustees of State Universities and Colleges of Maryland.

Jurisdictional Disputes: If a dispute arises over the jurisdiction of the committee assigned to decide the matter, the jurisdictional dispute shall be resolved as follows: for a grievance filed by faculty, it shall be resolved by the president of the Salisbury University Faculty Senate; for a grievance filed by a student, it shall be resolved by the Office of the Vice President of Student Affairs.

¹ "Regular" means non-contingent employees.

II. Procedures

Informal Resolution

All members of the University community are encouraged to attempt to resolve differences between themselves and others in an informal manner. 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 not proceed with the complaint or may begin the formal grievance procedures below. Nothing in this policy is to be construed to inhibit or prevent the grievant from reconsidering an informal resolution once the formal grievance procedures have begun.

Formal Grievance Procedures for Students

Timeline for Initiating a Formal Grievance

Grievances must be filed within 30 working days of the date on which the grievant knew or should have known of the action that led to the grievance. For faculty, the applicable period for "working days" is the contract year, approximately mid-August until mid-June. For students, the applicable period includes the fall and spring semesters of the academic year.

Requirements for Formal Grievances

A formal grievance must set forth in writing 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. If known, information about relevant University policies should be provided. Further, if the grievance is pursued through successive steps described below, the grievant must include each prior written grievance as well as the written response from the person or committee to whom the grievance was submitted.

Responses to Formal Grievances

Faculty, staff 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 information pertinent to the decision. The formal committee response should also include notification of the timeline for pursuing the grievance at the next level.

Procedural Steps

Step One – The grievant must submit a formal grievance to the person alleged to be responsible for the actions leading to the grievance within 30 working days of the date on which the grievant knew or should have known of the action that led to the grievance. For faculty, the applicable period for "working days" is the contract year, approximately mid-August until mid-June. For students, the applicable period includes the fall and spring semesters of the academic year.

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 a formal grievance with the supervisor of the person alleged to be responsible for the actions leading to the grievance. The supervisor of faculty is the department chair. The supervisor of department chairs is the dean.

The supervisor of the person alleged to be responsible for the actions leading to the grievance will provide a written response to the grievant within five working days of receiving the formal grievance.

Step Three – If the response is not satisfactory and the complaint is from a student and involves a non-academic matter, the grievant has five working days to file a formal grievance with the Office of the Vice President of Student Affairs. These grievances of non-academic matters will be referred to the Student Campus Life Grievance Committee (see Referral to Committee).

If the response is not satisfactory and the complaint is from a student and involves academic matters, including grade disputes, the grievant has five working days to file a formal grievance with the dean of the school in which the dispute has occurred. For grievances of these matters, the dean of the school will provide a written response to the grievant within five working days of receiving the grievance.

If the response is not satisfactory and the complaint is from a faculty member and involves an academic matter, the grievant has five working days to file a formal grievance with the dean of the school in which the dispute has occurred. For grievances of these matters, the dean of the school will provide a written response to the grievant within five working days of receiving the grievance.

If the response is not satisfactory and the complaint is from a faculty member and involves a non-academic matter, the grievant has five working days to file a formal grievance with the Office of the Provost. For grievances of these matters, the Associate Provost will provide a written response to the grievant within five working days of receiving the grievance.

Step Four – If the response in the Step 3 filing is not satisfactory, the grievant has five working days to file a formal grievance with the Office of the Vice President of Student Affairs for students' grievances, or the Office of the Provost for faculty members' grievances.

Referral to Committee

The Provost or Vice President of Student Affairs or his or her designee shall refer the grievance to the appropriate University committee for review and recommendation. Student grievances of all academic matters, including grade disputes, will be referred to the Academic Policies Committee. Student grievances of non-academic matters will have been referred to the Student Campus Life Grievance Committee pursuant to Step 3 of the process. Faculty grievances will be referred to committees as described in the Introduction of this Policy. The committee shall meet and determine in its sole discretion whether sufficiently significant questions have been raised and remain unresolved. Committees then have ten working days of receiving the formal grievance to decide among the following options: 1) to initiate an investigation, 2) to forego an investigation and initiate a formal hearing or 3) to render a written decision based on evidence submitted. If requested by a student, a hearing shall be held in all cases where the student alleges sufficient facts to show that the grievable matter could lead to serious implications for graduation or employment.

Committee Investigation

If the committee determines that an investigation or hearing should be undertaken to resolve the grievance, it shall send written notice to all parties that the committee will be investigating the grievance through a series of interviews at which the committee will collect additional information and evidence necessary for it to render an informed and reasoned judgment. The investigation may include interviews with the parties to the grievance and with any witnesses to the events, a review of any pertinent documents and any other actions that the Committee deems appropriate. The investigation, including interviews, will be completed within twenty working days of the decision to conduct an investigation.

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 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 cross examine the opponent's witnesses. In the discretion of the chair of the hearing board, 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 hearing board chair, who then will convey them to the witness.
- The hearing shall be closed to all persons but the grievant, the alleged responsible person, and the committee, unless all of the above persons agree otherwise. The hearing may be tape recorded at the discretion of the chair of the hearing board.
- No one may be represented by an attorney at the hearing, unless the person alleged to be responsible for the grievance is facing or may face criminal charges relating to the subject of the grievance. If so, both parties may elect to have counsel assist them. In this case, counsel for the committee may be present. The role of legal counsel in these hearings shall be limited to the role of advocate for their party in procedural concerns and assistance in the process. At no time may legal counsel give statements or participate in questioning witnesses and committee members.
- In all other grievances, the grievant and the subject of the grievance may be accompanied to the hearing by a non-legal advocate of his or her choosing who may provide support to the individual but otherwise shall not participate formally in the proceedings. The advocate shall be a member of the University student body, faculty, staff or administration.
- 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. The chair may set reasonable limits 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 legal counsel.
- 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 contrary to University policy or procedures.
- 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 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 may result.

- The hearing must be completed within twenty working days of the decision to conduct a hearing.

Findings

After the investigation or hearing has been held, or evidence submitted has been reviewed, the committee shall meet to consider the merits of the grievance. It shall consider only that evidence that was admitted in the investigation or hearing, and only those grievances which were formally part of the process. The deliberations shall be private and no recordings shall be made, nor shall any notes be kept other than purely personal notes of the members.

Upon the conclusion of its deliberations, the committee shall send a brief written notice of a preliminary finding of adequate or inadequate support for the grievance to the Provost or Vice President of Student Affairs and to the parties. The committee shall have five working days to provide such notice.

Upon receipt of the written notice, the grievant shall have five working days to decide to pursue or withdraw the grievance. If the grievant elects to pursue the grievance, he or she must provide written notice to the chair of the committee. In order for a sanction to be imposed or a decision reversed, the grievance must be pursued beyond the committee's deliberations. The grievant may confer with the chair of the committee before making this decision at which time the chair will explain the committee's rationale for its decision.

If the grievance is pursued, the committee shall issue a full report of its findings and its recommendations, including any dissenting views, after the report has been reviewed by all committee members. The report shall be sent to the Provost or Vice President of Student Affairs within ten working days from the time the committee receives notice that the grievant wishes to pursue the grievance. A copy of the committee report will be sent to the grievant and the allegedly responsible party by the Provost or Vice President of Student Affairs.

The Provost, in instances of grievances filed by faculty and instances of grievances filed by students grieving academic matters, or the Vice President of Student Affairs, in instances of grievances filed by students other than academic matters, will make a determination as to findings and sanctions, will issue a report, and convey it to the parties and the chair of the committee within five working days of receiving the committee report.

Appeal

If either party wishes to challenge the determination of the Provost or Vice President of Student Affairs, he or she may file an appeal to the President of the University within five working days of receiving the report. The bases for an appeal are only the following: (1) committee's failure to follow the procedures set forth in this Policy in a way which could have significantly prejudiced the appellant; (2) bias on the part of a committee member; or (3) the decision was based on a clearly erroneous interpretation of the evidence. The President may review the matter at his or her discretion, and shall issue a decision upholding or rejecting in whole or in part the findings of the committee within ten working days of receiving the appeal. The decision of the President shall be final.